

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3779 of 2019**

Arising Out of PS. Case No.-488 Year-2018 Thana- MOHANIYA District- Kaimur (Bhabua)

AWANISH KUMAR MISHRA @ SONU Son of Shri Ram Bachan Mishra
Resident of Village - Kurra, P.S.- Mohania, District - Kaimur (Bhabua)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rajesh Kumar Mishra, Adv.
For the Respondent/s	:	Mr.Usha Kumari 1, Spl.P.P.
For the Informant	:	None

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

6 29-11-2021 Heard the parties.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter in short referred to as the ‘SC/ST Act’) against the refusal of prayer for anticipatory bail vide order dated 06-04-2019 passed by learned Additional Sessions Judge 1st Kaimur at Bhabua, in connection with Mohania P.S. Case No.488 of 2018, registered under sections 420, 406, 504 of the IPC and sections 3(1)(r)(s) of the SC/ST Act.

The allegation against the appellant is that he has taken Rs.4 Lacs from the informant on the pretext of purchasing Cement, Sariya and bricks but the same has not been done, neither the said amount was returned to the informant.



Thereafter, when the informant requested him to return the same, assurance was given on several occasions that it will be returned. It is alleged that on 10.05.2018, the informant went to the appellant but the appellant abused him saying his caste name and refused to return the same.

It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence as alleged. He has no concern with the the said occurrence and has been falsely implicated in this case due to grudge. Slating the informant/complainant in the name of caste is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellant. The occurrence took place on 10.03.2016 but the complaint was filed on 29.05.2018 i.e. after more than two years. The allegation of slating the informant levelled against the appellants is not specific rather general and omnibus in nature. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that alleged occurrence has taken place in public view. The appellant has no criminal antecedent.

Learned Spl. PP for the State has opposed the prayer for anticipatory bail. However, learned counsel for the informant is



not present today.

In the facts and circumstance of the case, since the case is of civil nature, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st Kaimur at Bhabua, in connection with Mohania P.S. Case No.488 of 2018, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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