

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4955 of 2021

Arising Out of PS. Case No.-97 Year-2021 Thana- SIKARPUR District- West Champaran

SHASHIBHUSHAN TIWARI Son of Tumnath Tiwari Resident of village -
Dakahwa, Police Station - Shikarpur, District - West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shivdhar God Son of Tega Sah Resident of Village - Dakahwa, Police
Station - Shikarpur, District - West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Aditya Nath Jha
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 21-09-2022 The learned counsel for the appellant is directed to

remove all the defects pointed out by the office within one

month.

Heard learned counsel for the appellant as well as the

learned Special Public Prosecutor for the State.

This appeal has been preferred on behalf of the

appellants under Section 14 (A) (2) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting

aside the order dated 26.10.2021 passed by the learned

Additional District and Sessions Judge-cum-Special Judge

(SC/ST), Bettiah West Champaran, in connection with

Shikarpur P.S. Case No. 97 of 2021 registered for offence



punishable under sections 341, 323, 354B and 504/34 of the Indian Penal Code and sections 3 (i) (b) (r) of the SC/ST (POA) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

As per allegation the appellant was running a customer service center. The informant went to his customer service center to withdraw the money. The appellant informed him that there was no balance in his account, whereupon the informant told him that one day before of the occurrence, his father has deposited Rs. 7000/- in his account. Thereafter, the accused persons abused him by calling his caste name and they also assaulted the informant and his mother.

The learned counsel for the appellant has submitted that the appellant is innocent. He was running customer service center. When the informant came to withdraw money, the net connectivity was low and it was the reason that the informant became unsuccessful in withdrawing that money, which infuriated the informant and he made false allegation against the appellant.

The notice has been served to the informant, but none appeared on his behalf.

The FIR shows itself that the occurrence has taken



place due to non-withdrawal of money from customer service center run by the appellant, as such, the provision of SC/ST Act does not attract *prima facie*.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 26.10.2021 is set aside.

Accordingly, the appellant, in the event of arrest or surrender before the court below within four weeks from today, is directed to be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-cum-Special Judge (SC/ST), Bettiah West Champaran in connection with Shikarpur P.S. Case No. 97 of 2021.

Office shall ensure that all defects are removed by the appellants within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

Mahesh/-

U		T	
---	--	---	--

