

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1802 of 2023**

**In
CRIMINAL MISCELLANEOUS No.51565 of 2022**

Arising Out of PS. Case No.-880 Year-2021 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Kundan Kumar @ Kundan Paswan Son Of Suresh Paswan Resident Of
Village - Dumari, Dubey Tola, P.S.- Sadar, District - Muzaffarpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Hari Kishore Thakur, Advocate

For the Respondent/s : Ms. Asha Kumari, SPP

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER**

4 10-05-2024 Heard learned counsel for the appellant, learned
counsel for the informant and learned Special P.P. for the State.

2. Learned counsel for the appellant submits that the
present appeal has been tagged with another Cr. Appeal (SJ)
No.1660 of 2023 in which order of no coercive has been made
vide order dated 14.03.2023.

3. Upon perusal of order dated 14.03.2023 which is as
follows:-

***“Learned counsel for the
petitioners are directed to convert these
petitions into Cr. Appeal u/s. 14A(2) of
the Scheduled Caste and Scheduled
Tribe (Prevention of Atrocities) Act
within two weeks.***



In the meanwhile, no coercive step shall be taken against the petitioners in connection with the aforesaid case.”

4. From the said order it transpires that initially two Criminal Miscellaneous Case Nos.48858 of 2022 and 51565 of 2022 were filed by Jaggu Paswan @ Jaga Paswan and Kundan Kumar @ Kundan Paswan respectively. But by the said order dated 14.03.2023, it was directed by a coordinate Bench of this Court to convert those criminal miscellaneous applications in criminal appeals. Accordingly, the case of Jaggu Paswan @ Jaga Paswan has been numbered as Cr. Appeal (SJ) No.1660 of 2023 from Cr. Misc. No.48858 of 2022 and case of Kundan Kumar @ Kundan Paswan has been converted as Cr. Appeal (SJ) No.1802 of 2023 from Cr. Misc. No.51565 of 2022.

5. Learned counsel for the appellant submits that since both criminal miscellaneous applications were tagged together thereafter the converted criminal appeals were also treated as tagged together. He submits that upon conversion, there was defect in Cr. Appeal (SJ) No.1660 of 2023 which could not be removed. In result, this appeal was dismissed for default on 09.08.2023 due to non-compliance of the Hon'ble Court's order dated 26.07.2023, but the present appeal is still alive and has



come for hearing on the point of admission.

6. It transpires to this Court that order of no coercive step has been made by this Hon'ble Court only up to the conversion of Cr. Miscellaneous application into Criminal Appeal (SJ) and, thereafter there was no no coercive order in this case.

7. This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail by the learned Additional Sessions Judge-I, Muzaffarpur, in connection with Sadar Police Station Case No.880 of 2021, registered under Sections 365/120B/34 of the Indian Penal Code. Subsequently, offence under Section 302/34 of the Indian Penal Code was added.

8. Learned counsel for the appellant submits that FIR has been lodged against unknown accused persons and holder of mobile No. 9294272914 and against two unknown accused persons. Counsel submits that the FIR has been lodged against the holder of the said mobile number. He submits that there is no material against the present appellant only on suspicion name of the present appellant has been figured in this case. Learned counsel for the appellant further submits that the appellant's



antecedent is not clean. There is one criminal case pending against him in which he is on bail. He submits that his name has come in this case only and only due to suspicion and confessional statement of co-accused who has been granted regular bail on 23.11.2022 by this Court in Cr. Appeal (SJ) No.2502 of 2022.

9. Learned counsel for the State opposes the prayer for anticipatory bail and submits that case-diary has been called for. He submits that in the case-diary the statement of co-accused is there, by which it transpires that there is direct involvement of the present appellant in commission of crime.

10. Learned counsel for the informant vehemently opposes the prayer for anticipatory bail of the appellant and submits that from paragraph 64 of the case-diary entire modus operandi about commission of the crime in which involvement of the present appellant has been fully described.

11. It has also been submitted by the counsel for the State that under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, Section 18 clearly bars from granting anticipatory bail as Section 438 of the Code not apply to the persons committing offence under the Act.

12. In response thereof, counsel for the appellant



submits that since the deceased and the appellant both belong to the SC/ST. Therefore, Section 18 the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, shall not apply in this case. He submits that SC/ST Act is going on due to the reason that one of the accused is non SC/ST.

13. In the light of facts and circumstances, this appeal against the refusal of prayer for anticipatory bail has got no merit. Accordingly, it stands dismissed. However, in the event of surrender of the appellant within six weeks, the prayer for regular bail shall be considered by the trial Court on merit preferably within same day.

(Dr. Anshuman, J)

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