

(2021) 01 PAT CK 0208

Patna High Court

Case No: Criminal Appeal (Sj) No. 1895 Of 2020

Lalan Mahato

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision:** Jan. 22, 2021**Acts Referred:**

- Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 - Section 3(i)(r)(ii)(va), 14(A)(2)
- Indian Penal Code, 1860 - Section 34, 323, 341, 504, 506
- Code Of Criminal Procedure, 1973 - Section 438(2)

**Hon'ble Judges:** Ashwani Kumar Singh, J**Bench:** Single Bench**Advocate:** Bimlesh Kumar Pandey, Sadanand Paswan**Final Decision:** Allowed

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**Judgement**

1. Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. The instant appeal under Section 14A(2) of the Scheduled Castes and the Schedules Tribes (Prevention of Atrocities) Act, 1989 (for short "the

Act") has been preferred by the appellants against the order dated 16.03.2020 passed by the learned Additional District & Sessions Judge 1st-

cum-Special Judge, Bettiah, West Champaran in A.B.P. No.450 of 2020 whereby and whereunder he has rejected the pre-arrest bail application of

the appellants in connection with SC/ST Bettiah P.S. Case No.47 of 2018 registered under Sections 341, 323, 504 and 506/34 of the Indian Penal

Code and Section 3(i)(r)(ii)(v-a) of the Act.

3. Learned counsel for the appellants submitted that the police after completing the investigation found the case to be false and submitted Final Form

No.10 of 2019 dated 27.01.2019 before the court, but differing with the same, the court below took cognizance of the offences vide order dated

13.12.2019 in a routine and mechanical manner. He contended that court below while rejecting the application for grant of pre-arrest to the appellants

did not take note of the fact that the informant, who had appeared before the court pursuant to the notice issued by the court for hearing on the final

form submitted by the police had stated that he had settled the dispute outside the court and he did not intend to proceed ahead with the matter. He

further contended that even on merits, the court below ought to have considered that the FIR was instituted after 19 days of the alleged occurrence

without any explanation for the undue delay caused in filing of the FIR.

4. On the other hand, learned Special Public Prosecutor appearing for the State submitted that as per prosecution case, the appellant no. 1, Lalan

Mahato had borrowed Rs.30,000/- from the informant for certain works and assured him to return the borrowed money in the first week of August,

but he did not return the same inspite of repeated demand and, ultimately, on 09.09.2018, when the informant went to the house of the appellant no.1

Lalan Mahato, the accused persons abused him by taking his caste name. They also manhandled him, whereafter a panchayati was called but the

appellant no.1 did not turn up in the panchayati. He contended that the allegations made in the FIR would make out an offence punishable under the

Act. Accordingly, the trial court rightly rejected the application for grant of pre-arrest bail to the appellants.

5. Having considered the rival submissions, I am of the opinion that the court below did not appreciate the fact of the case in proper perspective. It

failed to take into consideration the undue delay of 19 days in instituting the FIR as also that the police found the case to be false during investigation.

6. Accordingly, the impugned order dated 16.03.2020 passed by the learned Additional Sessions Judge 1st-cum-Special Judge, Bettiah, West

Champan in A.B.P. No.450 of 2020 rejecting the application for grant of pre-arrest of the appellants is set aside.

7. The appellants are directed to be released on bail, in the event of his arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge 1st-cum-Special Judge, Bettiah, West Champaran in connection with SC/ST Bettiah P.S. Case No.47 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The appeal stands allowed.