

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1471 of 2019**

Arising Out of PS. Case No.-2 Year-2019 Thana- SC/ST District- Katihar

1. MANJU DEVI Wife of Baidhnath Gupta @ Baijnath Gupta Resident of Simra Bagan, (Hridayganj), P.S.- Sahayak, District - Katihar.
2. Bhola Gupta Son of Baidhnath Gupta @ Baijnath Gupta Resident of Simra Bagan, (Hridayganj), P.S.- Sahayak, District - Katihar.
3. Baidhnath Gupta @ Baijnath Gupta Son of Late Shivnath Gupta Resident of Simra Bagan, (Hridayganj), P.S.- Sahayak, District - Katihar.
4. Sunny Mahto @ Shani Mahto Son of Mahesh Mahto Resident of Simra Bagan, (Hridayganj), P.S.- Sahayak, District - Katihar.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar Mandal
For the Respondent/s : Mr. Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 02-07-2019 Heard learned counsel for the appellants and learned
Spl. PP for the State.

The appellants seek pre-arrest bail in connection with
Katihar SC/ST P.S. Case No. 02 of 2019 registered under
Sections 323, 341, 379, 504, 406 and 420/34 of the Indian Penal
Code and Section 3(i)(s)(r) of the SC/ST Act.

Appellant Baijnath Gupta is said to have taken Rs.1
lac in the name of executing land to the informant on different
dates till December 2017, but in vain. When the informant, his
wife, mother and others went to his house, all the appellants
who happen to be Baijnath Gupta and his wife and sons slated



them in the name of their caste and also assaulted them and snatched their belongings.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case. As a matter of fact, appellant Baijnath Gupta happens to be government employee and also vends milk. There was some differences between the appellants and the informant over cost of the milk accorded by the appellant Baijnath Gupta to the informant. Due to said reason, informant has filed this false and frivolous case against the appellants with altogether fabricated and concocted story. Appellants never promised to execute his land to the informant and there is no evidence of receiving money by him. The occurrence is said to be of 24.11.2018, but the F.I.R. has been lodged on 05.01.2019 i.e. after abnormal and inordinate delay of 1 month and 11 days without assigning any plausible explanation for the aforesaid delay. The allegation of slating the informant and others in the name of their caste levelled against the appellants is not in public view rather in the house of the appellants and no one sustained any injury, hence no offence under SC/ST Act is made out against the appellants. Hence the appellants may be enlarged on bail.



On the other hand, learned counsel for the informant and learned Spl. PP for the State vehemently opposing the bail petition submitted that the appellants have slated the informant, his family members and others in the name of their caste and also assaulted them and moreover appellant Baijnath Gupta in Katihar (Sahayak) P.S. Case No. 678 of 2018 was directed to surrender before the learned lower court and seek regular bail in anticipatory bail petition by this Court but he has yet not surrendered before the learned lower court. Hence he does not deserve bail.

Having regard to the facts and circumstances of the case, let the appellant no. 1 Manju Devi, appellant no.2 Bhola Gupta and appellant no.4 Sunny Mahto, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum Special Judge, Katihar in connection with Katihar SC/ST P.S. Case No. 02 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

So far as appellant no.3 Baijnath Gupta is concerned, his prayer for bail is rejected.



However, appellant no.3 Baijnath Gupta is directed to surrender before the learned court below within six weeks from today and seek regular bail and the learned court below shall dispose of the bail petition of the appellant no.3 Baijnath Gupta in accordance with law without being prejudiced by this order.

Accordingly, this appeal is disposed of.

(Prakash Chandra Jaiswal, J)

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