

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2689 of 2021**

Arising Out of PS. Case No.-2 Year-2021 Thana- SC/ST District- Sitamarhi

Sanjay Kumar @ Sanjay Singh, age about 39 years (M), Son of Late Pukar Mahto, resident of Village - Khairwa, P.S.- Bela, Distt.- Sitamarhi, at present residing in Village - Maniyari, P.S.- Punaura, Distt.- Sitamarhi.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Sanjay Kumar, Advocate.

For the Respondent : Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 16-09-2021 Heard learned counsel for the appellant and learned Special P.P. for the State through Virtual mode.

Learned counsel for the appellant is directed to remove the defects, as pointed out by the office, within a period of four weeks.

The appellant has challenged the order dated 26.03.2021, passed by learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Sitamarhi in connection with A.B.P. No. 608/2021/60/2021, arising out of SC/ST Sitamarhi P.S. Case No. 02/2021, registered for the offences under Sections 341, 323, 427, 504, 506 of the I.P.C. and Sections 3(1)(r)(s), 3(2)(va) of (P.O.A.) Act, whereby the prayer made on behalf of the appellant for grant of anticipatory



bail has been rejected.

The prosecution case, in short, is that the informant used to cultivate plot of 1 Bigha (Khata No. 58, Khesra Nos. 642, 643, Area 22.5 decimals) of Kedar Singh for last five years and shared half of the proceed with him and on 10.12.2020, he was weeding out the grass from the said field of *Sarso* and *Dhania* alongwith one Zamindar Singh when Sanjay Kumar (appellant) came there and told that he would cultivate wheat on that plot and asked them to go away. Upon this, the informant told him that he had taken that plot on *Bataidari* from one Kedar Singh and he would vacate the plot only upon the instruction of Kedar Singh. Upon hearing this, Sanjay Kumar (appellant) got enraged and abused him by calling out his caste name and started pouching the field by himself. When the informant protested, he caught his hair and threw him on the ground and assaulted him with *Danda* and threatened him that if he did not leave, he would urinate in his mouth. Thereafter, the locals took him to the hospital where he was treated.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against him. From perusal



of the case, it appears that the informant is a *Bataidar* of the father-in-law of the appellant in respect of the land in question. Admittedly, there was some dispute in respect of the land in question. No external injury is said to have been found on the body of the victim. The alleged occurrence is said to have taken place on 10.12.2020 as to when the present case was instituted on 12.01.2021. Delay has not been explained by the prosecution. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 26.03.2021, passed by learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Sitamarhi, in connection with A.B.P. No. 608/2021/60/2021, arising out of SC/ST Sitamarhi P.S. Case No. 02/2021, is set aside. The criminal appeal is allowed.

Let the appellant above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand



Only) with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Sitamarhi, in connection with SC/ST Sitamarhi P.S. Case No. 02/2021.

(Sudhir Singh, J)

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