

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1878 of 2020**

Arising Out of PS. Case No.-206 Year-2019 Thana- SARAN COMPLAINT CASE District-  
Saran

Prabhawati Devi, Wife of Ramesh Rai @ Ramesh Prasad Yadav, Resident of  
Village - Sadhpur, P.S.- Garkha, District - Saran (Chapra).

... .. Appellant

Versus

1. The State of Bihar.
2. Ramnath Ram, Son of Late Ram Ker, Resident of Village - Bhualpur, P.S.-  
Marhowrah, District - Saran (Chapra).

... .. Respondents

**Appearance :**

|                    |   |                                |
|--------------------|---|--------------------------------|
| For the Appellant  | : | Mr. Sachida Nand Rai, Advocate |
| For the Respondent | : | Mr. Binay Krishna, Spl. P.P.   |

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 07-01-2021**

Heard learned counsel for the appellant and learned  
Special Public Prosecutor for the State.

2. By way of the present appeal preferred under  
Section 14A (2) of the Scheduled Castes and the Scheduled  
Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'),  
the appellant has challenged the order dated 22.01.2020 passed  
by the learned Additional District and Sessions Judge-1st-cum-  
Special Judge, SC/ST, Saran at Chapra in Anticipatory Bail  
Petition No. 3680 of 2019 by which he has rejected the prayer  
of the appellant for grant of pre-arrest bail in connection with  
Complaint Case No.206 of 2019 corresponding to SC/ST Trial



No.176 of 2019 in which cognizance has been taken for the offences punishable under Section 406, 420, 323 read with 34 of the Indian Penal Code and Sections 3(1) (r)(s) of the Act.

3. It is submitted by the learned counsel appearing for the appellant that a perusal of the complaint itself would demonstrate that the instant case has been instituted in order to put pressure upon the appellant and her husband to execute sale deed in respect of certain land for which certain amount was advanced by the complainant to the husband of the appellant. He contended that the appellant is an innocent lady and has committed no offence. Her implication in the case is merely because she happens to be the wife of accused no.1. He further contended that the complaint would further demonstrate that neither any money was tendered to the appellant nor the legal notice was sent to her. The omnibus and general allegation made against her that she abused the complainant by taking his caste name is only a super-addition in order to put pressure upon her and her husband. He also contended that even the filthy language or the abusive words alleged to have spoken by the appellant are not mentioned in the complaint. He further contended that the complaint was belatedly instituted on 01.06.2019 for an occurrence alleged to have taken place on



02.05.2019 and there is no explanation in the complaint for the inordinate delay caused in institution of the complaint. He contended next that without appreciating the facts and law of the case, the court below has rejected the application of the appellant holding the same to be not maintainable. He argued that offence under the Act would not be maintainable merely because the complainant is a member of scheduled castes unless there is an intention to humiliate a member of scheduled castes or the scheduled tribes for the reason that the victim belongs to such caste. In the instant case, the parties are litigating over an agreement for sale.

4. Concluding his submission, he submitted that since the offence alleged under the Act or under the penal code are not attracted specially against the appellant, the court below ought to have held her application maintainable in law and granted pre-arrest bail to her.

5. On the other hand, learned counsel appearing for the State opposed the application for grant of pre-arrest bail to the appellant. He contended that though the specific allegation, the caste name and the abusive words spoken by the appellant have not been mentioned in the complaint, the same would not mean that no offence is made out under the Act. He contended



that there is specific allegation in the complaint that the complainant is a retired teacher whereas the husband of the appellant, namely, Rakesh Rai is a land broker, who had shown two and a half katha land for selling it for consideration amount of Rs.8,50,000/- and thereafter, a negotiation was held between them in presence of the appellant, who told that the land belongs to them. The complainant agreed to purchase the land and paid Rs.7,50,000/- through RTGS on 13.02.2018 in the name of the husband of the appellant and thereafter, Rs.50,000/- through cheque on 09.01.2018 and cash of Rs.50,000/- on 20.01.2019 to the husband of the appellant, who executed a bond for the said transaction. The sale deed could not be executed for the said transaction and, later on, the complainant came to know that the land is disputed one. The further allegation is that on 20.03.2019 the complainant gave a notice to the husband of the appellant through his advocate, which was not responded by him. Further, on 02.05.2019, when he met the accused persons, they abused him by taking his caste name and snatched Rs.10,000/- from his pocket. He, thus, submitted that there is no error in the order passed by the court below whereby it has held that the offence under the Act is made out and an application under section 438 would be barred in law.



6. Having heard the parties and perused the materials on record, prima facie, it appears that the case is predominantly of civil nature and the allegation of paying money for purchase of land or issuing legal notice is confined against the husband of the appellant. There is nothing specific against the appellant that what were the abuses hurled by her on the alleged date of occurrence. I further find that there is an inordinate delay in lodging of the complaint and there is no explanation for the same.

7. In the aforesaid circumstances, I am of the opinion that the court below ought to have granted pre-arrest bail to the appellant, who has been made accused mainly because she is the wife of the main accused.

8. Accordingly, the impugned order dated 22.01.2020 passed by the learned District and Sessions Judge-1st-cum-Special Judge, SC/ST, Saran at Chapra in Anticipatory Bail Petition No.3680 of 2019 is set aside.

9. The appeal stands allowed.

10. The appellant is directed to be released on bail in the event of her arrest or surrender in the court below on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the



learned District and Sessions Judge-1st-cum-Sepcial Judge,  
SC/ST, Saran at Chapra in connection with Complaint Case  
No.206 of 2019 (SC/ST Trial No.176 of 2019), subject to the  
condition as laid down under section 438 of the CrPC.

(Ashwani Kumar Singh, J.)

sanjeet/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NA         |
| CAV DATE          | NA         |
| Uploading Date    | 11.01.2021 |
| Transmission Date | 11.01.2021 |

