

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1574 of 2022**

Arising Out of PS. Case No.-26 Year-2021 Thana- SC/ST District- Araria

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1. NIKESH KUMAR @ NIKESH YADAV, Son Of Sri Indranand Yadav Resident Of Ward No.- 11, Rampur North, P.S.- Forbesganj, District - Araria.
 2. Indranand Yadav, Son Of Late Ramaswarup Yadav Resident Of Ward No.- 11, Rampur North, P.S.- Forbesganj, District - Araria.
 3. Prabha Devi, Wife Of Sri Indranand Yadav Resident Of Ward No.- 11, Rampur North, P.S.- Forbesganj, District - Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kavita Devi Wife of Sri Pradip Razak Resident of village - Rampur North, Ward No.- 10, P.S.- Forbesganj, District - Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjeet Choubey
For the Respondent/s : Mr. Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 14-09-2022 Heard learned counsel for the appellants and the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 04.01.2022 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, SC/ST Court, Araria in connection with Special (SC/ST) Case No.78 of 2021 arising out of Araria SC/ST P. S. Case No.26 of 2021, instituted for the offences under Sections 341, 323, 354(B), 370, 504 and 34 of the Indian Penal Code and Section 3(2) (z) of the Scheduled Castes & Scheduled Tribes (Prevention



of Atrocities) Act and the cognizance was taken under Sections 341, 323, 504, 506/ 34 of the I.P.C. and Sections 3(1)(r), 3(1)(s), 3(1)w(i) of the SC/ST Act, whereby their prayer for grant of anticipatory bail has been rejected.

The learned counsel for the appellants submits that the appellants are persons with clean antecedent and the informant alleges that on account of dispute relating to rent of shop, the appellants assaulted him and he was taken to Sadar Hospital for treatment.

The learned counsel for the appellants submits that the appellants have been falsely implicated in the present case and from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the dispute was completely civil for which, a criminal case has been instituted by misusing the SC/ST (P.O.A.) Act as the informant is aware that mere levelling of any provisions of the SC/ST Act, the anticipatory bail becomes a bar. The learned counsel next submits that though anticipatory bail under the SC/ST Act is not maintainable, but then the allegations are to be seen and the facts and circumstances of the case is also to be appreciated i.e. whether prima facie an offence under the Act is made out or not. The learned



counsel submits that from perusal of the allegations, it would manifest that no prima facie case under the SC/ST Act is made out as the entire occurrence even considered to be true, then occurred at the house of the informant and thus, was not in public view. It is next submitted that the informant alleges that he was assaulted and he was taken to Sadar Hospital for treatment, but then if it was a criminal case of assault, then definitely the government hospital would have informed the police while treating the informant, but in the present case the date of occurrence is 31.05.2021 and the F.I.R. came to be instituted on 08.06.2021 i.e. after a delay of eight days without any plausible explanation.

Regard being had to the aforesaid submissions, the order dated 04.01.2022 is set-aside.

The appeal stands allowed.

The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.3,000/- (Rupees Three Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions



Judge-cum-Special Judge, SC/ST Court, Araria in connection with Special (SC/ST) Case No.78 of 2021 arising out of Araria SC/ST P. S. Case No.26 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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