

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2953 of 2021**

Arising Out of PS. Case No.-87 Year-2020 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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JITENDRA UPADHYAY @ JITENDRA KUMAR UPADHYAY Son of Late
Narmadeshwar Upadhyay Resident of Village - Bansghat Hasanpurwa Tola,
P.S.- Chakia, District - East Champaran. Appellant/s

Versus

The State of Bihar. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar No.III
For the Respondent/s : Mrs. Usha Kumari 1

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 05-05-2022 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 06.04.2021 passed by learned 1st Additional Sessions Judge cum Special Judge (SC/ST Act), Motihari in connection with Complaint Case No. 87 of 2020 registered under Sections 465 & 420/34 of the Indian Penal Code and Section 3 (r) (i) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, is that the complainant, after his retirement, after taking loan of Rs.15,00,000/- given it in three installments to the appellant



and the appellant acknowledged him that the land of Hathua Raj is situated in the campus of Chakia Sugar Factory and he is care taker of the same and also asked that the said land of Hathua Raj would be registered in the name of complainant by the heirs of Hathua Raj. Later on, the complainant came to knowledge that the said land is Gairmazarua land. Thereafter, the complainant demanded his money then the appellant along with other co-accused insulted him and abused him by caste name.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. He has been falsely implicated in the case due to ulterior motive. Slating the complainant in the name of caste is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellant. There is inordinate delay of three years in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. It is also submitted that cognizance has been taken by the learned Court below. Appellant has no criminal antecedent.

Learned Special PP for the State opposing the prayer for bail submitted that the appellant has committed forgery with the complainant and also slated him taking his caste name.



Hence, he does not deserve for anticipatory bail.

Having heard rival submissions of the parties, as per submission of learned counsel for the appellant that cognizance has been taken against the appellant and in view of the law laid down by the Hon'ble Apex Court in the case of **Bachu Das Vs. State of Bihar and others** reported in **(2014) 3 Supreme Court Cases 471**, I am not inclined to enlarge the appellant on bail. The prayer for anticipatory bail of the appellant is hereby rejected.

Accordingly, this appeal is dismissed.

(Anjani Kumar Sharan, J)

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