

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2019 of 2022**

Arising Out of PS. Case No.-76 Year-2020 Thana- BATHNAHA District- Sitamarhi

RAM KISHUN SAH @ KRISHNA SAH Son of Ram Ganesh Sah @ Ganesh Sah Resident of Village - Tandaspur (Rupauli Ruphara), Ward no.04, P.O.- Koili, P.s.- Bathnaha, Distt.- Sitamarhi, PIN - Code- 843302 Bihar

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Rakesh Kumar Son of Ganesh Ram Resident of Village - Tandaspur, P.s.- Bathnaha, Distt.- Sitamarhi, PIN- Code- 843302 (Bihar)

... .. Respondent/s

**Appearance :**

|                      |   |                              |
|----------------------|---|------------------------------|
| For the Appellant/s  | : | Mr. Uday Kumar, Advocate     |
| For the Respondent/s | : | Mr. Sadanand Paswan, Spl.APP |

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

2      23-08-2022                      Heard learned counsel for the appellant and learned Spl.P.P. 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 referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** vide order dated 09.03.2022 in ABP No. 2742 of 2021 passed by the learned 1<sup>st</sup> Additional Sessions Judge-Cum-Special Judge, Sitamarhi in connection with Bathnaha P.S. Case No. 76 of 2020 registered under Sections Sections 341, 323, 504, 506 and 34 of the Indian Penal Code and



Sections 3(1) (r) (s) and 3(2) (va) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act).

Learned counsel for the appellant submits that appellant is a person with clean antecedent and the informant alleges that when his brother was returning from his field he was intercepted by the accused persons, including the appellant, and they started abusing him and when the informant arrived, the accused assaulted him by *lathi* and *danda* and appellant put pistol on his neck and on alarm they fled.

Learned counsel for the appellant submits that from bare perusal of allegation as alleged in the FIR, it would manifest that no offence under the SC/ST Act is made out, it is next submitted that even the informant has not disclosed in the FIR that as to what abuse was being hurled by the appellant, it is next submitted that as far as allegation of assault is concerned, the same is ornamental in nature as it absolutely does not stand to reason that when appellant was carrying pistol why he would have put the same on the neck of the informant without even assaulting with the butt of the pistol, the learned counsel next submits



that informant realizing his mistake and on intervention of the well-wisher has compromised the case as would be evident from Annexure-2, the learned counsel thus submits that since the informant is not willing to pursue the case and has entered in a compromise that in itself demonstrates that the allegation as alleged in the FIR loses its sanctity, it is further submitted that even the informant through his counsel in the learned District Court had accepted the factum of compromise as its stand recorded in the impugned order.

Learned Spl.P.P. for the State opposes the prayer for anticipatory bail of the appellant.

Considering the submissions made by the learned counsel for the appellant, order dated 09.03.2022 in ABP No. 2742 of 2021 passed by the learned 1<sup>st</sup> Additional Sessions Judge-Cum-Special Judge, Sitamarhi in connection with Bathnaha P.S. Case No. 76 of 2020 giving rise to S.T. No. 266 of 2021 is hereby set aside and the appellant, above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on



furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Bathnaha P.S. Case No. 76 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

**(Satyavrat Verma, J)**

Shivam/-

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