

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2065 of 2022**

Arising Out of PS. Case No.-16 Year-2021 Thana- SC/ST District- Purnia

1. ANWARUL S/O LATE MAQBOOL Resident of Village- Bariya, P.O- Kanhariya, P.S.- Baisi, District- Purnia.
2. BHARAT YADAV S/O LATE DHANESHWAR YADAV Resident of Village- Bariya, P.O- Kanhariya, P.S.- Baisi, District- Purnia.

... .. Appellant/s

Versus

THE STATE OF BIHAR BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Helal Ahmad
For the State	:	Mrs.Usha Kumari 1
For the Informant	:	Mr. Md. Fazle Karim

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

2 12-07-2022 The present matter has been listed under the heading
“To Be Mentioned” on the basis of motion slip filed on behalf of
the appellants.

Let the defect(s) as pointed out by the office be
removed within four weeks from today.

Heard learned counsel for the appellants, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

The appellants have filed the instant appeal against the
order dated 03.06.2022 passed in Special SC/ST Case No.
30/2021, CIS No. 30/2021 arising out of SC/ST P.S. Case No.
16 of 2021 by the learned Special Judge SC/ST Act, Purnia



whereby and whereunder the prayer for bail of the appellants in connection with Special SC/ST Case No. 30/2021, CIS No. 30/2021 arising out of SC/ST P.S. Case No. 16 of 2021 registered under Sections 147, 149, 341, 323, 427, 379, 354, 504, 506 of the Indian Penal Code, Sections 3(i)(r)(s), 3(2)(va) of SC/ST Act was rejected.

As per allegation in the FIR, it is stated by the informant that on 04.02.2021 at 5:00 PM while he was working at his field, suddenly 15-20 persons including the appellants reached there and abused him by calling his caste name and they also destroyed maize crop of informant. When informant made noise, his wife came to save him then all the accused persons including the appellants assaulted the informant's wife and undressed her. It is further alleged that chain of silver was snatched by the appellant Anwarul from the neck of informant's wife and at the time of departure the accused persons threatened of dire consequences.

It is submitted by learned counsel for the appellants that there is general and omnibus allegation against the appellants. He further submits that prior to alleged occurrence, the appellants have inimical term with informant's brother as informant's brother runs PDS shop and he was found indulged



in black marketing of kerosene oil and the same was protested by the appellants. Appellants are in custody since 28.05.2022 and bears no criminal antecedent. He further submits that as per FIR the alleged occurrence took place on 04.02.2021 but written complaint was registered on 13.02.2021 after delay of nine days without any explanation.

The appeal is opposed by learned counsel for the informant as well as learned Special Public Prosecutor for the State.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the appellants, nature of allegation and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 03.06.2022 passed in Special SC/ST Case No. 30/2021, CIS No. 30/2021 arising out of SC/ST P.S. Case No. 16 of 2021 by the learned Special Judge SC/ST Act, Purnia is hereby set aside.

The appellants are directed to be enlarged on bail in connection with Special SC/ST Case No. 30/2021, CIS No. 30/2021 arising out of SC/ST P.S. Case No. 16 of 2021 on each of them furnishing bail bond of Rs.10,000/ (Rupees Ten



thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Act, Purnia with following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellants will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the appellants tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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