

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2681 of 2021**

Arising Out of PS. Case No.-3 Year-2020 Thana- SC/ST District- Siwan

1. Santosh Kumar, Son Of Surendra Prasad Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.
2. Surendra Prasad, Son Of Baban Sah Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.
3. Manoj Kumar @ Manoj Kumar Gupta, Son Of Surndra Prasad Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.
4. Sabita Devi @ Salita Devi, W/O Santosh Kumar Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.
5. Sri Dina Nath Gupta @ Sri Dina Gupta, Son Of Late Manu Sah Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.
6. Anita Devi, Son Of Dina Nath Gupta Resident Of Village - Pachlakhi, P.S.- Nautan, Distt.- Siwan.

... .. Appellant/S

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bijay Prakash Singh- Advocate
For the State	:	Ms. Usha Kumari-I- S.P.P.
For the Informant	:	Ms. Priyanka Kumari- Advocate
		Mr. Pratiyush Kumar- Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 07-07-2023 Heard learned counsel for the appellants, learned counsel for the informant and the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 24.03.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in connection with SC/ST P. S. Case No.03 of 2020, instituted for the offences under Sections 420, 406, 465, 467, 468, 471, 120(B), 341, 504,



506, 34 of the Indian Penal Code and Section 3(i)(r)(s), 3(2) (va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, whereby their prayer for grant of anticipatory bail has been rejected.

The learned counsel for the appellants are persons with clean antecedent and was informant of Nautan P. S. Case No.07 of 2020 dated 12.01.2020, in which the present informant is an accused. It is next submitted that the appellant no.1, being informant of Nautan P. S. Case No.07 of 2020, had alleged that the present informant, in name of sending to a foreign country, had taken money, but duped him.

The learned counsel next submits that after the said case was instituted by the appellant no.1, thereafter the informant instituted the present case on 28.01.2020. It is next submitted that from bare perusal of the present F.I.R., it would manifest that the date of occurrence is 23.12.2019 and the F.I.R. has been instituted on 28.01.2020 i.e. after a delay of more than one month. The learned counsel next submits that since the appellants had instituted Nautan P. S. Case No.07 of 2020 alleging against the present informant that he duped him of his money in name of sending to a



foreign country, as such, the present false case came to be instituted.

It is next submitted that in order to give a serious colour to the case, it has been alleged that the accused persons including the appellants came and abused the informant by taking his caste name and even assaulted his mother. It is next submitted that the informant has assigned reasons in the F.I.R. for instituting belatedly alleging that he was assured by the appellants that he would return the money, but when the money was not returned, the F.I.R. came to be instituted. It is next submitted that the present F.I.R. came to be instituted by way of counter-blast of Nautan P. S. Case No.07 of 2020 and the allegation of merely taking caste name does not attract the SC/ST (P.O.A.) Act. Further, allegation of assault is also general and omnibus in nature and there is no eye witness to the occurrence.

The learned Special P. P. as well as learned counsel for the informant opposes the bail application, but are not in a position to rebut the submission of the learned counsel for the appellants that the F.I.R. was instituted after a delay of more than one month. The learned counsel for the



informant further submits that the appellants on 31.03.2019 and thereafter, on 01.08.2019 had even cheated the informant by providing him forged VISA of Dubai.

The learned counsel for the appellants rebuts the submission of the learned counsel for the informant and submits that from bare perusal of the present F.I.R., it would manifest that the date of occurrence is recorded as 23.12.2019 whereas it is being submitted that the forged VISA was given to the informant by the appellants firstly on 31.03.2019 and thereafter on 01.08.2019. It is further submitted that no such VISA was given by the appellants to the informant.

Regard being had to the aforesaid submissions, the order dated 24.03.2021 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 eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in connection with SC/ST P. S. Case



No.03 of 2020, subject to the conditions laid down under
Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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