

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2090 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- SC/ST District- Kaimur (Bhabua)

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1. DIMPAL DEVI WIFE OF LATE RAKESH SINGH VILLAGE NAUBATPUR, PS SAIYADRAJA, DISTT- CHANDAULI , UP
 2. RAM PRAKASH GUPTA @ MUNNA SADHU SON OF LATE RADHEYSHYAM GUPTA VILLAGE NAUBATPUR, PS SAIYADRAJA, DISTT- CHANDAULI ,UP

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. SUKHARI RAM SON OF LATE KHOBHARI RAM RESIDENT OF VILLAGE- KHAMIDAURA, PS- DURGAWATI, DISTT- KAIMUR (BHABHAUA)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shankar Kumar, Adv.
For the State	:	Mr.Binay Krishna, Spl. PP
For the Respondent No.2	:	Mr. Chandra Mohan Jha, Adv. Mr. Rakesh Kumar Mishra

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 06-10-2023 Heard Mr. Shankar Kumar, learned counsel for the appellants, Mr. Chandra Mohan Jha and Mr. Rakesh Kumar Mishra, learned counsel appearing on behalf of respondent No.2 and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

2. This appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been directed against the order dated 03.04.2023, passed by learned Special Judge SC/ST (POA) Act, Kaimur at Bhabhua in connection with SC/ST P.S. Case No. 03



of 2023, registered under Sections 147, 148, 149, 341, 323, 384, 379, 354, 427, 504, 506 of the Indian Penal Code and Section 3(i)(r)(s)(w)(i)/3(2)(v-a) of SC/ST (POA) Act, whereby the prayer for pre-arrest bail of the appellants has been rejected.

3. Prosecution case, in short, is that the informant entered into an agreement to purchase a land from the appellants and in consequence thereof, the informant paid consideration amount of Rs.12,12,000/-. It is further case of the informant that he paid total Rs. 2,79,000/- on different dates to the appellants and thereafter, the appellant refused to register the land in question and called the informant of his caste name.

4. Learned counsel for the appellants submits that the appellants have clean antecedent. They have falsely been implicated in the present case. He further submits that from the FIR, it appears that the present FIR has been instituted for ulterior motive only to harass the appellants. It also appears that the date of occurrence as alleged in the FIR is 26.01.2022 but the present FIR has been instituted on 24.01.2023 after lapse of about one year. He next submits that the appellants, as per FIR, have received the first installment on 08.03.2022 whereas, in the FIR, the informant has stated that he has paid the amount to the appellants on different dates. The verbal agreement starts from



08.03.2022 and prior to that verbal agreement, the informant has paid the amount to the appellants in 2020, which suggests that the informant has filed the present false and fabricated case against the appellants only to harass them and, no such occurrence has taken place.

5. On the other hand, learned counsel for respondent No. 2 and learned APP for the State have vehemently opposed the prayer for bail and submit that the appellants abused the informant by calling their caste name.

6. Considering the facts and circumstances of the case, let the above-named appellants, in the event of their arrest or surrender within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST (POA) Act, Kaimur at Bhabhua in connection with SC/ST P.S. Case No. 03 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further following conditions;

(i) Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient



reason, their bail bond shall be cancelled by the Court below.

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

And, further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage, it is found that the appellants have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

7. Accordingly, this appeal is allowed and the impugned order is set aside.

(Rajesh Kumar Verma, J)

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