

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.2281 of 2023**

Arising Out of PS. Case No.-331 Year-2022 Thana- GARKHA District- Saran

NITISH KUMAR @ NITISH KUMAR SINGH Son of Pappu Singh Resident  
of Village - Chintamanganj, P.S.- Garkha, Distt.- Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sabita Devi Wife of Harendra Manjhi Resident of Village - Chintamanganj,  
P.S.- Garkha, Distt.- Saran at Chapra.

... .. Respondent/s

**Appearance :**

|                      |   |                                       |
|----------------------|---|---------------------------------------|
| For the Appellant/s  | : | Mr.Nawal Kishore Singh, Advocate      |
| For the Informant    | : | Mr. Mani Bhusan Kumar Singh, Advocate |
| For the Respondent/s | : | Mrs.Usha Kumari 1, Spl. pp            |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH  
SINGH**

ORAL ORDER

4      15-12-2023                      Heard learned counsel for the appellant and learned  
counsel for the informant as well as learned Special Public  
Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the  
Scheduled Castes and Scheduled Tribes (Prevention of  
Atrocities) Act against the rejection of prayer for anticipatory  
bail vide order dated 10.04.2023 passed by the learned  
Additional Sessions Judge, 3<sup>rd</sup>, Saran at Chapra in A.B.P. No.  
386 of 2023 arising out of Garkha P.S. Case No. 331 of 2022  
dated 26.05.2022 registered for the offence/s punishable u/ss  
323, 324, 380, 452, 504 and 506 of the Indian Penal Code and  
sections 3(i)(r)(s) of the SC/ST (POA) Act.



3. As per the prosecution case, the appellant is alleged to have broken lock of the box in the house of the informant and took out golden chain, Mangtika worth Rs. 80,000/- and Rs. 5000/- in cash from the said box. Thereafter, she chased and caught him and asked her stolen articles whereupon the appellant abused him by calling his caste name and he also assaulted the informant due to that her wrist got injured and he fled away with stolen articles.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is a delay of nine months in lodging the FIR. Nothing has been recovered from the conscious possession of the appellant. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. The said word is not laced with the casteist remark. As per FIR, no member of public was present at the relevant point of time of the incident as the incident took place inside her house at 10 PM. Learned counsel has further submitted that no specific caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has four criminal antecedents as stated at para 3 of the bail petition.



5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 10.04.2023 passed by the learned Additional Sessions Judge, 3<sup>rd</sup>, Saran at Chapra in A.B.P. No. 386 of 2023 arising out of Garkha P.S. Case No. 331 of 2022, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge, 3<sup>rd</sup>, Saran at Chapra in A.B.P. No. 386 of 2023 arising out of Garkha P.S. Case No. 331 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

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