

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2890 of 2023**

Arising Out of PS. Case No.-10 Year-2019 Thana- SC/ST District- Gaya

Niraj Yadav @ Niraja Yadav Son of Rajendra @ Daku Yadav Village-
Maranpur Lattu Gali P.S.- Vishnupad Dist- Gaya

... .. Appellant/s

Versus

1. The State of Bihar.
2. Kiran Devi Wife of Dilip Kumar Choudhary Village- Maranpur Lattu Gali
P.S.- Vishnupad Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manish Kumar No2, Advocate
For the Respondent/s : Mr. Usha Kumari 1, Spl.P.P.

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

ORAL ORDER

5 15-12-2023 Heard learned counsel for the appellant, learned
counsel for the respondent no.2 and learned Spl.P.P. for the
State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
'SC/ST Act') against the refusal of prayer for anticipatory
bail of the appellant vide order dated 26.05.2023 passed by
the learned Special Judge, SC/ST, Gaya in connection with
A.B.P. No. 168 of 2023 (arising out of Gaya SC/ST P.S.
Case No. 10 of 2019) registered for the alleged offences



under Sections 341, 323, 504, 506 and 379 of the Indian Penal Code and Sections 3(i)(r)(s)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the accused persons armed with pistol threatened the mother of the complainant and took thumb impression on plain non-judicial stamp paper of Rs. 1000/- and also on several plain papers claiming that Khata No. 1652, Plot No. 1334 and Old Plot No. 20595 belonged to them. On 11.02.2018, the accused persons started fixing *khutta* for tying buffaloes on her land. When the complainant, her husband and mother raised objection then Niraj Yadav and his wife started abusing in filthy language by calling her caste name and assaulted the complainant, her husband and mother by fists and slaps. They also snatched golden chain from the neck of the complainant.

4. Learned counsel for the appellant submits that the appellant is innocent and have been falsely implicated in this case. The appellant is named in the F.I.R. There is general and omnibus allegation against the appellant. It is further submitted that as per the F.I.R., no member of public



was present at the relevant point of time of the alleged incident, hence, no offence under SC/ST Act is made out against the appellant. Learned counsel has further submitted that there is land dispute between the parties and only to pressurize the appellant to leave the land, the present case has been instituted under the SC/ST Act. The appellant has no criminal antecedent as stated in the para 3 of the bail petition.

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no.2 have opposed the prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as the fact that no case u/s SC/ST Act is made out against the appellant, the impugned order dated 26.05.2023 passed by the learned Special Judge, SC/ST, Gaya in connection with A.B.P. No. 168 of 2023 (arising out of Gaya SC/ST P.S. Case No. 10 of 2019), is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest/ surrender before the learned Court below within a period of six weeks from today, be enlarged



on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST, Gaya in connection with A.B.P. No. 168 of 2023 (arising out of Gaya SC/ST P.S. Case No. 10 of 2019), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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