

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3022 of 2022**

Arising Out of PS. Case No.-87 Year-2022 Thana- KUTUMBA District- Aurangabad

1. DOMAN MEHTA Son of Late Sukhodee Mehta Resident of Village - Haneya, P.O.- Matpa, P.S.- Kutumba, District - Aurangabad.
2. PRAVEEN MEHTA SON OF DOMAN MEHTA Resident of Village - Haneya, P.O.- Matpa, P.S.- Kutumba, District - Aurangabad.
3. JANENDRA SAO @ JALENDRA SAO SON OF LATE SHMAN GUPTA Resident of Village - Haneya, P.O.- Matpa, P.S.- Kutumba, District - Aurangabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanchan Bhuiyan Son of Late Devkee Bhuiyan Resident of Village - Haneya, P.S.- Kutumba, District - Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vyas Kumar Mishra, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

4 07-07-2023 Heard learned counsel for the appellants and learned
Spl. P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "SC/ST Act") against the refusal of prayer for anticipatory bail vide order dated 29.07.2022 in A.B.P. No. 1286 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Aurangabad in connection with Kutumba P.S. Case No. 87 of 2022 registered for the offences punishable under Sections 341, 323, 504 and 325/34 of the Indian Penal Code as well as Sections 3(i)(r)(s)/3(2)(va) of the SC/ST Act.



Learned counsel for the appellants submits that the appellants are persons with clean antecedent and appellant No. 1 is aged about 83 years.

Learned counsel for the appellants next submits that the informant alleges that while he was working in the field of late Dashrath Mahto, when all the accused persons including the appellants came and assaulted him and abused him by taking his caste name.

The learned counsel for the appellants submits that the appellants have been falsely implicated in the present case, it is next submitted that it absolutely does not stand to reason that a person aged about 83 years would indulge in such an occurrence, it is further submitted that on account of dispute relating to land the present false case has been instituted. It is next submitted that even presuming what has been alleged is true without admitted then the FIR does not even remotely suggest that the occurrence was witnessed by any witness nor the allegation of assault is specific.

The learned counsel for the appellants further submits that the date of occurrence was 28.04.2022 and the FIR came to be instituted on 04.05.2022 i.e., after delay of more than five days, which further cast an aspersion on the case of the prosecution.

Learned Spl. P.P. for the State opposes the prayer for



anticipatory bail of the appellants.

In view of the submissions made by the learned counsel for the appellants, the order dated 29.07.2022 in A.B.P. No. 1286 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Aurangabad in connection with Kutumba P.S. Case No. 87 of 2022 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Kutumba P.S. Case No. 87 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

Adnan/-

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