

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3239 of 2022**

Arising Out of PS. Case No.-105 Year-2022 Thana- ARA MUFFSIL District- Bhojpur

DINANATH TIWARY Son of Sidhnath Tiwary Resident of House No.- 43,
Ara Salempur Road, Village - Babhnauli, P.O.- Ratanpur, P.S.- Ara Muffasil,
District - Bhojpur at Ara.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Kunal Tiwary, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl. P.P.
For the informant	:	Mr. Amrendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 30-01-2023 Heard Mr. Kunal Tiwary, learned counsel for the
appellant, Mr. Amrendra Kumar, learned counsel for the
informant and Mr. Binay Krishna, the learned Special P.P.

The present appeal has been filed against the appellant
for grant of anticipatory bail in connection with Ara Muffasil
P.S. Case No. 105 of 2022 under sections 147, 149, 341, 323,
379, 324 and 307 of the Indian Penal Code and Section 3(i)(r)
(s)/3(2)(va) of SC/ST (Prevention of Atrocities) Act.

As per the prosecution story, the informant
Dharmendra Upadhyay alleged that when he was getting his
boundary wall constructed, the accused persons came and



started assaulting him, causing injury as also took Rs. 25,000/- and further his staff Om Prakash Paswan and Amit Ram came to his rescue, they were also attacked and abused by taking their caste name.

Accordingly, the case was registered amongst other under SC/ST Act.

Learned counsel for the appellant submits that due to land dispute, some scuffle took place which led to the case and counter case in which both sides suffered injuries.

So far as this present appellant is concerned, it is his further submission that just to make the allegation graver, it has been alleged that the appellant abused his staff taking caste name.

The said staff namely Amit Ram later gave an affidavit which is annexed as Annexure-3 to show that he was not abused by the appellant taking caste name.

Learned counsel for the appellant submits that some of the similar placed appellants namely Pravin Tiwary @ Sumit Kumar Tiwary, Narendra Tiwary and Sumit Tiwary have been granted relief by a coordinate bench of this Court vide Cr. Appeal No. 3366 of 2022.

Let the same be kept on record.



Per contra, learned counsel for the informant submits that even ignoring the SC/ST Act, some of the injuries have been found to be grievous in nature.

Taking into account the affidavit made by Amit Ram, denying the allegation of abuse by caste name by the appellant, the nature of allegation is omnibus, some of the appellants have been granted relief, the impugned order dated 23.8.2022 passed by the 1st Additional Sessions Judge cum Special Judge, SC/ST Act, Bhojpur at Ara is set aside.

The appeal is allowed.

Let the appellant be released on bail, in the event of his arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Schedule Caste/Schedule Tribes Act, Bhojpur at Ara, in connection with Ara Muffasil P.S. Case No. 105 of 2022 arising out of A.B.P. No. 2070 of 2022 subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further conditions as follows:

(i) the appellant shall appear on each and every date before the Trial Court and failure to do so for two consecutive



dates without plausible reason will entail cancellation of his/her bail bond by the Trial Court itself;

(ii) the appellant shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iii) if the appellant commits the offence of same nature again, this order shall become infructuous.

(Rajiv Roy, J)

Ravi/Ajay Singh

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