

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.844 of 2024

Arising Out of PS. Case No.-1197 Year-2023 Thana- KHAJANCHI HAT District- Purnia

1. Hare Ram Das S/O Late Kisto Mohan Das R/O Maharaja Hata, Janta Chowk, P.S- K. Hat, Distt.- Purnea.
2. Khagendra Chandra Das S/O Sukhen Chandra Das R/O Lalganj, P.S- Maranga, Distt.- Purnea. At Present Residing At Vivekanand Colony, P.S- K. Hat (SAHAYAK), Distt.- Purnea.
3. Shakar Das @ Shankar Kumar S/O Hari Ram Das R/O Maharaja Hata, Janta Chowk, P.S- K.Hat, Distt.- Purnea.
4. Ranjan Das S/O Mahindra Chandra Das R/O Bahin, Jhitkai, P.S- Raiganj, Distt.- Uttar Dinajpur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Rimjhim Mehtar W/O Vijay Mehtar R/O Brajesh Nagar, P.S- K.Hat, Distt.- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv Mr.Md Fazle Karim, Adv
For the Respondent/s	:	Ms.Usha Kumari 1, Spl. PP Mr. Kumar Manglam, Adv

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-02-2024 **1.** Heard learned senior counsel for the appellants, learned Spl. P.P. for the State along with learned counsel for the Respondent No. 2.

2. The learned senior counsel for the appellants seeks permission to make rectification in paragraphs 1, 23 and 24 of the appeal.

3. Permission is accorded.

4. 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 16-1-2024 in A.B.P. No. 154 of 2023 passed by the learned Special Judge S.C./S.T. (POA) Act, Purnia in connection with K. Hat P.S. Case No. 1197 of 2023 registered for the offences punishable under Sections 147, 149, 341, 342, 352, 323, 354, 504 and 506 of the Indian Penal Code as well as Sections 3(1)(r)(s) of the SC/ST Act.

5. The learned senior counsel for the appellants submits that the appellants have been falsely implicated in the present case by the respondent No. 2. It is next submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that *prima facie* no offence under the SC/ST Act is made out for the reason that though it is alleged that the occurrence took place near the *dollar house crossing*, but then the FIR does not even remotely suggest that the occurrence was witnessed by any public, nor it is alleged that any public was also present at the place of occurrence. It is next submitted that Appellant Nos. 3 and 4 are persons with clean antecedents and Appellant Nos. 1 and 2 have antecedents of one case, but then the said case was also instituted by the present respondent No. 2. It is further submitted that there is a dispute relating to land pertaining to Mauza-Madhubani, Thana No. 123/1, Khata No.



49, Plot No. 1176 measuring 15 *katha* and Plot No. 902/1331, measuring an area of 63 decimals in between the Appellant No. 1 and Manoj Kumar Sinha. It is further submitted that since Manoj Kumar Sinha is bent upon acquiring the land of the Appellant No. 1 herein, as such he earlier got SC/ST PS Case No. 38 of 2023 instituted by the informant, and thereafter again the present case also came to be instituted at his instance.

6. It is further submitted that SC/ST Act was enacted with a laudable object of ensuring protection to the SC and ST, but off late the Act is being used as a tool of harassment. It is further submitted that in the nature of allegation as alleged in the FIR, since the occurrence is not alleged to have been witnessed by any public, though it is being alleged that the occurrence took place at the *dollar house crossing*, but then the informant very wisely, in the last portion of the FIR, alleges that 3-4 public came when the accused persons fled up.

7. The learned senior counsel for the appellants next submits that everyone is aware of the law pertaining to SC/ST Act, and in the event if the appellants had any intention of threatening the Respondent No. 2 for withdrawing the case, in that event they would not have chosen a public place, which amply demonstrates that the instant FIR has been instituted only



with a view to make out a case.

8. The learned Spl. PP and the learned counsel appearing on behalf of Respondent No. 2, Mr. Kumar Manglam oppose the appeal, but then are not in a position to rebut the submission of the learned senior counsel for the appellants that initially also the informant had instituted a case under the SC/ST Act against Appellant Nos. 1 and 2 and no name of any witness is recorded in the present FIR.

9. Considering the aforesaid facts, let the appellants above-named, in the event of their arrest or surrender before the learned Court below within a period of thirty days from the date of receipt of the order, 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 the aforesaid case, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

10. Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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