

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1037 of 2024

Arising Out of PS. Case No.-15 Year-2022 Thana- SALAIYA District- Aurangabad

1. Akbar Khan S/o Mukhtar Khan Resident of Village- Basant P.S.- Salaiya, Dist.- Aurangabad
2. Irfan Khan @ Bholu Khan S/o Jeelani Khan Resident of Village- Basant P.S.- Salaiya, Dist.- Aurangabad
3. Md. Shahnawaz Khan @ Shahnawaz Khan S/o Ainul Khan Resident of Village- Basant P.S.- Salaiya, Dist.- Aurangabad
4. Amarzeb Khan @ Malo Khan S/o Mujeeb Khan Resident of Village- Basant P.S.- Salaiya, Dist.- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Shanti Devi Wife of Indradeo Ravidas Resident of Village- Maheshpur, P.S.- Salaiya, District- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shahbaj Alam, Adv.
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 23-08-2024 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

2. In compliance of the order of this Court, notice was issued upon respondent no.2 and the same was received by husband of respondent no.2, therefore, a jointness petition has been filed to state that respondent no.2 is living with her husband. As such, notice is deemed to be validly served upon the respondent no.2 but nobody appears on her behalf.

3. This is an appeal under section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)



Amendment Act, 2015 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail vide order dated 14.03.2022, passed by learned Special Judge, SC/ST -cum- 1st Additional District and Sessions Judge, Aurangabad, in connection with Salaiya P.S. Case No.15 of 2022, registered u/s 341, 323, 504 and 308/34 of the IPC and sections 3(1)(r)(s)/ 3(2)(va) of the SC/ST Act.

4. Allegedly, the appellants along with other co-accused persons assaulted the informant's side by means of deadly weapons and also abused them by taking caste name.

5. It is submitted by learned counsel for the appellants that the appellants are innocent and have not committed any offence. No such occurrence, in the manner as alleged has ever taken place. Appellants have been falsely implicated in the case with frivolous allegation due to ulterior motive. It is submitted that no offence under the SC/ST Act is made out against the appellants as there is no specific allegation against the appellants to abuse the informant by taking caste name in public place. Also, there is an admitted land dispute between the parties. Relying upon the judgment of the Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand & Another*, reported in **2020 (10) SCC 710**, it is submitted that if there



is a land dispute between the parties, the appeal for anticipatory bail is maintainable. Appellants have no criminal antecedent and several similarly situated co-accused have been granted anticipatory bail by this Court vide Cr. Appeal (SJ) No.1786 of 2022 dated 22.02.2023.

6. Learned Spl. PP for the State opposed the prayer for bail.

7. Considering the facts and circumstances of the case, since similarly situated co-accused have been granted anticipatory bail, let the appellants named above, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST cum-1st Additional District & Sessions Judge, Aurangabad, in connection with Salaiya P.S. Case No.15 of 2022, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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