

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1529 of 2023**

Arising Out of PS. Case No.-86 Year-2022 Thana- SIGAUDI District- Patna

Md. Gulam Sarwar @ Tutu Mallik @ Ghulam Sarwar, Male, aged about 49 years, Son of Jafar Imam @ Jafar Mallik @ Lat Jafar Mallik, Resident of Village - Chiksi, P.S.- Sigori, District – Patna.

... .. Appellant

Versus

1. The State of Bihar.
2. Kusum Devi, Wife of Sadhu Choudhary, R/o Village - Chiksi Nat Tola, P.S.- Sigori, District - Patna.

... .. Respondents

**Appearance :**

|                   |   |                                |
|-------------------|---|--------------------------------|
| For the Appellant | : | Mr. Bindeshwar Kumar, Advocate |
| For the State     | : | Mr. Sadanand Paswan, Spl. P.P. |

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

ORAL ORDER

3      02-02-2024                      Heard learned counsel for the appellant 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 of anticipatory bail of the appellant vide order dated 23.11.2022, passed by the learned Exclusive Special Court, SC/ST Act, Patna in A.B.P. No. 7403 of 2022 corresponding to Special Case No. 149 of 2022 in connection with Special Case No. 149 of 2022, arising out of Sigori P.S. Case No. 86 of 2022 registered for the offences punishable under Sections 147, 149, 323, 324, 341, 354, 307,



504, 506 of the I.P.C. read with Sections 3(1)(r)(s) of the SC/ST (POA) Act.

3. The prosecution case, in brief, is that the appellant assaulted one Dinesh Yadav, as a result of which, he sustained serious injury. Upon hearing the hulla, the informant and others went there to rescue Dinesh Yadav, but the appellant misbehaved with them and tried to outrage the modesty of the informant. It is also alleged that about 50 persons came with lathi, danda and assaulted the informant and others.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is submitted that no specific overt act is alleged against the appellant. It is also submitted that as per the F.I.R., there is no castiest remark alleged against the appellant. Hence, no offence under the SC/ST Act is made out against the appellant. The other accused persons have already been granted anticipatory bail by another Co-ordinate Bench of this Court vide order dated 03.05.2023, passed in Cr. Appeal (SJ) No. 113 of 2023. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal.

5. Learned Spl. P.P. for the State has opposed the



prayer for anticipatory bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case, the impugned order dated 23.11.2022, passed by learned Exclusive Special Court, SC/ST Act, Patna in A.B.P. No. 7403 of 2022, corresponding to Special Case No. 149 of 2022 in connection with Special Case No. 149 of 2022, arising out of Sigori P.S. Case No. 86 of 2022, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court, SC/ST Act, Patna in connection with Special Case No. 149 of 2022, arising out of Sigori P.S. Case No. 86 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

**(Chandra Prakash Singh, J)**

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