

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.3203 of 2023**

Arising Out of PS. Case No.-46 Year-2017 Thana- BHAGWANPUR District- Begusarai

Bhola Prasad @ Bholi Mahto Son Of Rajendra Mahto Resident Of Village-  
Karjan, Po- Manopur, Ps- Bhagwanpur, Distt- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar
  2. Anil Paswan Son Of Bideshwari Paswan Resident Of Village- Bishanpur,  
Ps- Bhagwanpur, Distt- Begusarai
- ... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Sunil Kumar Yadav  
For the Respondent/s : Mr.Usha Kumari I

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

4      30-08-2024      Heard learned counsel for the appellant and learned  
Special Public Prosecutor for the State.

2. Learned Spl.PP. for the State submits that he informed the informant to appear in the present appeal through his counsel, but nobody appears on his behalf.

3. 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 vide order dated 06.06.2023 passed by learned Exclusive Special Judge SC/ST (POA) Act, Begusarai in connection with Bhagwanpur P.S. Case No. 46 of 2017 registered under Sections 341, 323, 354, 504, 506, 379, 427, 34 of the Indian Penal Code and Section 3 (i) (x) of the Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act.

4. Allegedly, all the accused persons including the appellant are said to have committed loot of crops of wheat from the field of the informant and plowed other two plots. On objection, they assaulted the informant and also abused him by taking his caste name.

5. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has committed no offence. He has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to dirty village politics. The allegation of assault levelled against the appellant is not specific rather general and omnibus in nature. There is admitted land dispute between the parties and a title suit bearing Title Suit No. 176 of 2009 is pending between them. Learned counsel for the appellant relied upon the judgment of the Apex Court in the case of **Hitesh Verma Vs. State of Uttarakhand and another reported in (2020) 10 Supreme Court Cases 710**. It is further submitted that the appellant was granted the privilege of Section 41A of the Cr.P.C. Later on, after the investigation, the charge sheet has been submitted against the appellant by the police. It is further submitted that the learned Court below has taken cognizance against the appellant. Learned counsel for the



appellant submitted that the similarly situated co-accused has already been granted bail by this Court vide order dated 23.08.2024 passed in Cr. Appeal (SJ) No. 1016 of 2024. The appellant has no criminal antecedent as mentioned in para-3 of memo of appeal.

6. Learned Special PP for the State vehemently opposing the prayer for bail submitted that the cognizance has been taken against the appellant and in view of the law laid down by the Hon'ble Apex Court in the case of *Bachu Das Vs. State of Bihar and others* since reported *in (2014) 3 Supreme Court Cases 471* anticipatory bail application is not maintainable before this Court.

7. In the facts and circumstances of the case, as there is admitted land dispute between the parties, 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 bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge SC/ST (POA) Act, Begusarai in connection with Bhagwanpur P.S. Case No. 46 of 2017, 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)

devendra/-

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