

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4669 of 2023

Arising Out of PS. Case No.-393 Year-2023 Thana- BIHTA District- Patna

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1. SANJAY VERMA @ MUNNA MAHTO @ SUNNY VERMA S/O PYARE MAHTO VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 2. SUNNY MAHTO @ SUNNY KUMAR VERMA S/O SANJAY VERMA @ MUNNA MAHTO @ SUNNY VERMA VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 3. BITTU MAHTO @ BITTU KUMAR S/O JUGESHWAR MAHTO VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 4. VIKASH KUMAR @ VIKAS MISTRI S/O BINAY MISTRI VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 5. JAIKI KUMAR @ JAIKI SAO S/O LAKKHU SAO VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 6. DHARAMVEER KUMAR @ DHARAMVIR KUMAR @ DHARAMVIR SAO S/O VINOD SAO VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
 7. MANISH SAW @ MANISH SAO @ MANISH KUMAR S/O RAVINDRA SAW @ FUDAN SAO VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
- Appellant/s

Versus

1. The State of Bihar
 2. MALTI DEVI W/O VIRENDRA BHARTI VILLAGE- MAHUAR, PS. BIHTA, DIST. PATNA
- Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rudra Deo, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 16-04-2024 1. Heard learned counsel for the appellants, Mr. Binay Krishna learned Special Public Prosecutor for the State and learned counsel appearing on behalf of the respondent no. 2.
2. 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 13.09.2023 in A.B.P. No. 5179 of 2023 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in connection with Bihta P.S. Case No. 393 of 2023 registered under Sections 147, 149, 341, 323, 504 and 506 of the Indian Penal Code as well as Sections 3(i)(r)(s)w(i)(c)(t)(v) of the SC/ST Act.

3. Learned counsel for the appellants submits that all sections of the Indian Penal Code areailable but then the prayer for anticipatory bail is not maintainable for the reason that the case has also been instituted under the SC/ST Act. It is further submitted that merely because the case has been instituted under the SC/ST Act that itself does not disentitle the appellants from consideration of their prayer for anticipatory bail. It is next submitted that from 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. It is also submitted that no doubt, allegation is of removing the Panchsheel flag and showing disrespect to the same as alleged in the FIR but then the FIR does not even remotely suggest that the occurrence was witnessed by any independent witness as such the allegation remains in realm of allegation. It is further submitted that allegation is also of abusing the respondent no. 2 by taking caste



name but then the said allegation is also not specific nor the FIR discloses that it took place within the public view. It is next submitted that earlier in the year 2013 a proceeding under Section 144 Cr.P.C. was initiated from the side of the appellants against the respondent no. 2 and the same was decided against the respondent's side and this perhaps explains why the appellants have been implicated in the instant case with general and omnibus allegation.

4. Learned Special Public Prosecutor and the learned counsel appearing on behalf of the respondent no. 2 opposed the prayer for anticipatory bail but then are not in a position to rebut the submissions of the learned counsel appearing on behalf of the appellants that the FIR does not disclose that the occurrence was witnessed by any independent witness and even allegation of abuse is general and omnibus in nature.

5. Considering the submissions made by the learned counsel for the appellants, let the appellants, above named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bonds of Rs.20,000/- (rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned



Court below where the case is pending in connection with the
aforesaid case, subject to the conditions as laid down under
Section 438(2) of the Code of Criminal Procedure.

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

(Satyavrat Verma, J)

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