

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5353 of 2023**

Arising Out of PS. Case No.-56 Year-2022 Thana- NATIONAL HIGHWAY District-
Samastipur

1. MD. EHSAN @ MD. AISHAN SON OF MD. HASNAIN
2. SHABANA KHATOON WIFE OF MD. HASNAIN
BOTH RESIDENT OF VILLAGE- SRISIYA, P.S.- N.H. BANGRA,
DISTRICT- SAMASTIPUR.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Md. Rafi Ahmad, Advocate
For the Respondent/s : Ms.Usha Kumari I, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 08-08-2024 Heard learned counsel for the appellants and the
learned Special Public Prosecutor for the State.

2. The appellants have challenged the order dated 21.08.2023 passed by the learned Special Judge SC/ST (POA) Act, Samastipur in connection with N.H. Bangra P.S. Case No.56 of 2022 instituted for the offences under Sections 147, 149, 341, 323, 325, 427, 307 and 504 of the IPC and Section 3(1)(r)(s)(i)(w) of the SC & ST Act, whereby their prayer for grant of anticipatory bail has been rejected.

3. Learned counsel for the appellants submits that appellants are persons with clean antecedent and from perusal of the allegation as alleged in the FIR, it would manifest that on account of dispute relating to land the present occurrence is



alleged to have taken place, it is next submitted that allegation of assault is not against these appellants rather specific allegation of assault is against Md. Hasnain and Md. Nizam, it is further submitted that even using abusive language against the appellants is not alleged specifically as who amongst the accused abused the informant by using abusive language with respect to caste, it is further submitted that the informant alleges that the occurrence took place when informant was constructing his house on a piece of land, which the appellants were claiming as their. It is further submitted that even presuming what has been alleged is true without admitting then the occurrence did not take place in public view nor the allegation even remotely suggests that the occurrence was witnessed by any independent witnesses.

4. It is further submitted that similarly situated co-accused Md. Reyaz @ Md. Reaj along with Md. Meraj @ Md. Mehraj had approached this Court seeking anticipatory bail by filing Cr. Appeal (SJ) No.1924 of 2023 and the same was allowed by an order dated 28.06.2023. It is also submitted that the case of the appellants is similar to the case of Md. Reyaz and Md. Meraj as such based on parity seeks anticipatory bail.

5. The learned Special P.P. opposes the anticipatory



bail application.

6. Regard being had to the aforesaid submissions, the order dated 21.08.2023 is set aside.

7. The appeal stands allowed.

8. The appellants above named, in the event of their arrest or surrender before the learned court below within a period of six weeks, is directed to be released on bail on their furnishing bail bonds in the sum of Rs.5000/-(Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST (POA) Act, Samastipur in connection with N.H. Bangra P.S. Case No.56 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

Prakash Narayan

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