

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.324 of 2025

Arising Out of PS. Case No.-14 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Prayag Sao S/o- Late Cander Sao Village- Bajaura Ps- Dobhi Dist- Gaya
 2. Birendra Sao S/o- Prayag Sao Village- Bajaura Ps- Dobhi Dist- Gaya
 3. Harinandan Sao @ Harinandan Kumar @ Harinandan Kumar Sao S/o- Prayag Sao Village- Bajaura Ps- Dobhi Dist- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Manager Das S/o- Late Somar Das Village- Bazaura Ps- Dobhi Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shailesh Kumar Singh
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 02-04-2025 1. Heard learned counsel for the appellants and learned Additional Public Prosecutor for the State as well as learned counsel for the respondent no. 2.
2. An order, dated 07.12.2024, passed by learned Additional Exclusive Special Judge SC/ST, Gaya, in ABP No. 360 of 2024, is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with SC/ST Police Station Case No. 18 of 2017 registered for the offence punishable under Sections



149/392/323/504 of the Indian Penal Code and Section 25 of the Arms Act and Section 3 (1)(r)(s)/ 3(2)(va) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, has been rejected.

3. The prosecution case, as per the First Information Report, is that on 01.12.2016, at about 05:00 AM, the appellants demolished and taken away the iron gate of the informant/complainant on the ground that the gate was installed on a public land made for public passage. The appellants also allegedly assaulted and abused the informant by his caste name.
4. Learned counsel for the appellants submits that both the appellants and informant are neighbours and genesis of this case is land dispute between them. The land dispute is apparent from the statement made in complaint/FIR. He next submits that the case is pending before the Revenue Court for measurement of disputed land and it is evident from the complaint that the nature of case is civil dispute, but it has been given the colour of criminal case, alleging commission of offence under the sections of SC/ST Act. He further submits that abuse by caste name is not in full public view and there is no sign of injury upon the



informant. The police, after investigation, found the case as untrue, and submitted the final form, not sending the appellants for trial. However, the Special Court, SC/ST, Gaya, differed with the police report and took cognizance against the appellants in mechanical manner.

5. On the other hand, learned counsel for the respondent no. 2 vehemently opposes the prayer for anticipatory bail and submits that once cognizance has been taken against the appellants, prima facie case is made out against them, as such, this anticipatory bail is not maintainable in view of the decision of the Supreme Court, in the case of **Bachu Das v. The State of Bihar and Others**, reported in **(2014) 3 SCC 471**.
6. I have heard learned counsel for the parties and have gone through the materials available on records, including the First Information Report.
7. Although, as a general rule, for the offences committed under SC/ST Act, anticipatory bail is not maintainable as per Section 18 of the Act. However, in the case of **Vilas Pandurang Pawar and Anr. v. State of Maharashtra and Ors**, reported in **(2012) 8 SCC 795**, and **Bachu Das** (supra), Hon'ble Supreme Court carved out an exception



to this rule, wherein, it has been held that the scope of the SC/ST Act read with Section 438 of the Cr.P.C. is that it creates a specific bar for the grant of anticipatory bail, however, if on a prima facie reading of the materials referred to in the complaint and the complaint itself, the ingredients necessary for constituting the offence are not made out, the bar of Section 18 would not be applicable and it would be open to the courts to consider the plea for the grant of pre-arrest bail on its own merits. This view was reiterated in the case of **Subhash Kashinath Mahajan v. The State of Maharashtra and Ors**, reported in (2018) 6 454, **Prathvi Raj Chauhan v. Union of India**, reported in (2020) 4 SCC 727, and **Shajan Skaria v. State of Kerala**, reported in 2024 SCC online SC 2249.

8. Further, in the case of **Hitesh Verma v. State of Uttarakhand and Anr.**, reported in (2020) 10 SCC 710, Hon'ble Supreme Court has held that offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to



such caste. It was further observed in the aforesaid case that since the parties are litigating over the possession over the land, any dispute arising on account of possession of the land/property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

9. Coming back to the fact of the present case, it appears from the First Information Report that occurrence has taken place due to land dispute, caste name was not taken in full public view, there is no sign of injury upon the informant and both the parties are neighbours having dispute regarding passage. The allegation of humiliation, harassment and using caste name of the informant by the appellants and other accused persons are not due to fact that the informant/complainant belongs to the vulnerable section of the society.

10. Considering the land dispute between the parties and both the parties are claiming land, for which, measurement proceeding is pending before the Revenue Court, accordingly, I am inclined to grant the appellants privilege of anticipatory bail.



- 11.This appeal is, accordingly, allowed and the order, dated 07.12.2024, passed by learned Exclusive Special Judge, SC/ST, Gaya, in ABP No. 360 of 2024, is set aside.
- 12.Let the appellants, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya, in connection with SC/ST Police Station Case No. 18 of 2017, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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