

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.660 of 2024

Arising Out of PS. Case No.-438 Year-2023 Thana- SIWAN MUFFASIL District- Siwan

1. Shankar Dayal Singh @ Shankar Dayal son of Ramji Singh @ Ramjit Singh Village- Mardapur Ps- Siwan Muffasil Dist- Siwan
2. Prabhat Kumar son of Harishankar Singh Village- Mardapur Ps- Siwan Muffasil Dist- Siwan
3. Mister Aftab Alam @ Mister Miyan son of Jainuddin Miyan Village- Mardapur Ps- Siwan Muffasil Dist- Siwan
4. Ganesh Mishra @ Ashok Singh son of Late Sarda Singh Village- Mardapur Ps- Siwan Muffasil Dist- Siwan
5. Jainuddin Miyan son of Late Jamadar Miyan Village- Mardapur Ps- Siwan Muffasil Dist- Siwan
6. Santosh Kumar @ Santosh Yadav son of Late Muneshar Chaudhary Village- Barhan Ps- Siwan Muffasil Dist- Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Ragini Kumari wif of Rajan Kumar Manjhi Vill- Hajiyapur Ps- Gopalganj Dist- Gopalganj A/p- R/o- Nayi Basti Mahadeva Ps- Siwan Muffasil Dist- Siwan

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Pandey, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.
For the Respondent/s	:	Mr. Prashant Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-07-2025 Heard Mr. Ajay Kumar Pandey, learned counsel for the appellants, Mr. Prashant Kumar, learned counsel for the respondent no. 2 and Mr. Binay Krishna, learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated



06.11.2023 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Siwan in connection with A.B.P. No. 2428 of 2023 arising out of Siwan Muffasil P.S. Case No. 438 of 2023, F.I.R. dated 07.08.2023 registered under Sections 147, 447, 427, 341, 379, 279, 337 and 504 of the Indian Penal Code and Section 3(4)(15) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, the informant alleged that on 19.07.2023 at around 11 A.M., while she was engaged in construction work on her purchased land, all the named accused persons arrived armed with lathi, danda, axe and spade. They began abusing and assaulting her and her labourers. Co-accused, Sola @ Rajendra Singh allegedly took away the handle of the hand pump and co-accused, Mister Aftab Alam @ Mister Miyan allegedly snatched Rs. 20,000/- from the informant and also threatened her.

4. Learned counsel for the appellants submits that the appellant nos. 2, 3, 5 and 6 have clean antecedent and appellant nos. 1 and 4 have one case other than the present but they are on bail in the pending matters. It appears from the F.I.R. that the appellants are named in the F.I.R. but from a bare perusal of the F.I.R., it appears that due to land dispute, the present occurrence



had taken place and there is no specific allegation of any assault, overt act or abusing by caste name attributed against the appellants rather there is general and omnibus allegation against all the accused persons including these appellants. He further refers to paragraph no.18 of the judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)** which is quoted hereinbelow:-

“Therefore, 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. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.”

5. In view of paragraph-18 of the aforesaid judgment and in the background of the land dispute, no case is made out under SC/ST Act against the appellant.

6. Learned Special Public Prosecutor for the State as well as learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the appellants.



7. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Castes and Scheduled Tribes Act is made out.

8. Considering the aforesaid facts, there is no specific allegation against these appellants, apart from that, in the background of the land dispute and in view of the judgment of the Hon'ble Apex Court, as mentioned aforesaid, let the appellant, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two surities of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum Special Judge, Siwan in connection with Siwan Muffasil P.S. Case No. 438 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023 and with other following conditions:-

i. Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient



reason, their bail bond shall be cancelled by the Court below.

ii. If the appellants tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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

(Rajesh Kumar Verma, J)

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