

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.737 of 2024

Arising Out of PS. Case No.-306 Year-2023 Thana- NAUTAN District- West Champaran

1. Kishori Sah @Kishori Prasad SON OF LATE RAM CHANDRA SAH @ RAM CHANDRA PRASAD RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN
2. ASHOK SAH SON OF LATE RAM CHANDRA SAH @ RAM CHANDRA PRASAD RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN
3. GAYA YADAV SON OF RAM CHANDRA YADAV @ RAM PRASAD YADAV RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN
4. PARAS SAH SON OF LATE KESAR SAH @ KEDAR SAH RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN
5. VINOD YADAV SON OF LATE PUJAN YADAV @ SHIV PUJAN YADAV RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN
6. MANGARU YADAV SON OF LATE HIRAMAN YADAV RESIDENT OF VILLAGE- GAHIR GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. PRADEEP RAM SON OF RAMLAL RAM RESIDENT OF VILLAGE- GAHIRI GAMHARIYA, PS- NAUTAN, DIST- WEST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Gupta, Advocate
For the Respondent/s	:	Mr. Sanjeev Kumar, Advocate
		Mr. Sitesh Kashyap, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA



ORAL ORDER

3 29-07-2025 Heard Mr. Ashok Kumar Gupta, learned counsel for the appellants, Mr. Sanjeev Kumar, learned counsel for the informant 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 08.11.2023 passed by the learned Court of 1st Additional Sessions Judge-cum Special Judge, Bettiah, West Champaran, in connection with Nautan P.S. Case No.306 of 2023, F.I.R. dated 20.07.2023 registered under Sections 147, 148, 149, 341, 323, 325, 307,452, 327, 504, 506 of the Indian Penal Code and Sections 3(i) (s), 3(ii) (v) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, on 17.07.2023, a land dispute in village Gamhariya led to a violent clash. The informant tried to stop the accused from ploughing the land, after which the accused abused and assaulted him. Vidhyarthi Shama, who tried to intervene, was attacked with a farsha by Lalu Yadav, and Nand Kishor Prasad was injured by Yogendra Yadav with an iron rod. Sanjay Yadav fired a gun at the informant, causing multiple injuries, and Reyajul Mian also shot Kismati Devi, injuring her. The accused fled after threatening to kill the informant if he returned. The injured were taken to



Bettiah Medical College, and an F.I.R. was lodged.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. From a bare perusal of F.I.R., it appears that due to admitted land dispute, the present occurrence had taken place. Although, the appellants are named in the F.I.R., but from a bare perusal of the F.I.R., it appears that there is no specific allegation of any assault or abuse by caste name attributed against the appellants rather the specific allegation of assault is attributed against other co-accused persons and it appears from the F.I.R. that the date of occurrence, as alleged in the F.I.R. is 18.07.2023 but the present F.I.R. has been instituted on 20.07.2023, after delay of two days, without giving any explanation of delay. Apart from that in view of the judgment in the case of *Hitesh Verma v. State of Uttrakhand & others reported in (2020) 10 SCC 710*, paragraph -18 which reads as under:-

18. 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. 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 appellants.

6. Learned Special Public Prosecutor for the State as well learned counsel for the informant have vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the F.I.R. and with a common intention they have committed the present crime in question.

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 and circumstances, the appellants have clean antecedent and apart from that in the background of land dispute, no case is made out under the SC/ST Act against the appellants, let the appellants, 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 sureties of



the like amount each to the satisfaction of learned Court of 1st Additional Sessions Judge-cum Special Judge, Bettiah, West Champaran, in connection with Nautan P.S. Case No.306 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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