

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.731 of 2024

Arising Out of PS. Case No.-999 Year-2023 Thana- BARACHATTI District- Gaya

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Ashok Yadav @ Ashok Kumar Son of Basudev Prasad @ Basudev yadav
Resident of Village- Padeya, Police Station- Barachatti and District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sri Ram Paswan Son of Muneshwar Paswan Resident of Balthar, P.S.-
Barachatti, District- Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Awadhesh Kumar, Advocate
For the Informant	:	Mr. Mahendra Thakur, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl.PP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 12-08-2025 Heard Mr. Awadhesh Kumar, learned counsel for the

appellant, Mr. Mahendra Thakur, learned counsel for the

Informant as well as Mrs. Usha Kumari 1, 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
12.01.2024 passed by the learned Court of Exclusive Special
Judge, SC/ST Court, Gaya in connection with Barachatti P.S.
Case No. 999 of 2023, F.I.R. dated 16.11.2023 registered under
Sections 341, 342, 427, 379, 505, 506 of the Indian Penal Code
and Sections 3(1)(g)(s)/3(2)(v-a) of the Scheduled Castes and
Scheduled Tribes Act.



3. According to the prosecution case, the informant alleged that when he was constructing building in Gajra Garh at Barachatti then the appellant along with other people armed with weapons came to his house and started abusing him and threatened him and abolished the boundary of his building.

4. Learned counsel for the appellant submits that appellant is innocent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellant has not committed any offences as alleged in the F.I.R. From bare perusal of the FIR it appears that the occurrence took place in the house of the informant which is not a public place, so no case is made out under SC/ST Act. He further submits that proceeding under Section 144 Cr.P.C is going on between the parties which suggest that there is land dispute between the parties. 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. 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 Respondent No.2 have vehemently opposed the prayer for bail of the appellant on the ground that the appellant carries three criminal antecedents other than the present one but fairly submits on the basis of paragraph-3 of the bail application that the appellant is on bail in the pending matters.

7. After hearing the parties and considering the aforesaid facts that the occurrence took place in the house of the informant which is not a public place, so no case is made out under SC/ST Act, and a proceeding under Section 144 Cr.P.C is going on between the parties and in view of the aforesaid judgment of the Hon’ble Apex Court, no case is made out under the provisions of Scheduled Castes and Scheduled Tribes Act.



8. Consideration the aforesaid, let the appellant, above named, in the event of his 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) with two surities of the like amount each to the satisfaction of learned Court of Exclusive Special Judge, SC/ST Court, Gaya in connection with Barachatti P.S. Case No. 999 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. Appellant 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the appellant tampers 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 appellant and in case at any stage it is found that the appellant has concealed his



criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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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