

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.602 of 2025

Arising Out of PS. Case No.-149 Year-2019 Thana- MADHUBAN District- East Champaran

Shambhu Kumar S/o Bishu Sah R/o Village- Talimpur, PS- Madhuban, Distt-
East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Mostt. Sunam Devi W/o Late Santosh Ram R/o vill - Banki Tikam, P.S.-
Madhuban, Distt.- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Khushi Awadh, Adv.
For the Respondent/s : Mr. Binay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 27-08-2025 1. Heard the learned counsel for the appellant and
learned Special P.P. Mr. Binay Krishna.
2. The learned counsel for the appellant submits that
from perusal of the office report dated 28.03.2025, it would
manifest that the same records that respondent no.2 after taking
the notice declined to put her signature.
3. In view of the office report dated 28.03.2025, the
notice is deemed to have been validly served.
4. Heard learned counsel for the appellant and the
learned Special P.P. Mr. Binay Krishna.
5. This is an appeal under Section 14-A(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 24.12.2024 in A.B.P. No. 5523/2024, passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with Madhuban P.S. Case No.149/2019 (T.R. No.66/2020), registered under Sections 341, 323, 307, 302, 354(B), 504, 506, 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) and 2(v)(A) of the SC/ST Act.

6. Learned counsel for the appellant submits that the appellant is person with clean antecedent and is son of Bishu Sah. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that informant alleges that her husband worked as a labour for Bishu Sah and he had some dues, accordingly, he had gone to the house of Bishu Sah on 07.07.2019 for settling his account when it is alleged that the accused persons including the appellants assaulted him, further on order of Bishu Sah, his son Sanjay Sah assaulted the husband of the informant by an iron rod and thereafter his younger son Shambhu also assaulted by an iron rod on the abdomen and testicle of her husband and he fell unconscious, thereafter he was taken to Dr. Harendra Prasad, who referred him to a higher center but her husband died.



7. Learned counsel for the appellant submits that police after threadbare investigation came to a considered conclusion that appellant has been falsely implicated in the instant case by the informant and thus submitted final form exonerating the appellant of the allegation, as alleged in the FIR but then the learned trial court differing with the police report, took cognizance, as such the appellant apprehends arrest. It is next submitted that when one investigating agency after threadbare investigation came to a considered conclusion that appellant is innocent whether it would be prudent for the Court to send the appellant to jail based on an order of cognizance which came to be taken based on the same police report which exonerated the appellant of the allegation.

8. Learned Special Public Prosecutor Mr. Binay Krishna fairly submits that it is difficult to countenance the submission made by the learned counsel appearing on behalf of the appellant but then it is submitted that since cognizance has been taken as such anticipatory bail is not maintainable, in view of the judgment of the Hon'ble Supreme Court, in the case of *Bachchu Das vs. The State of Bihar, reported in 2014 (3) SCC 471*.

9. In view of the submission made by the learned



Special P.P., the Court is not inclined to extend the privilege of anticipatory bail to the appellant.

10. Accordingly, the appeal is dismissed.

11. However, if the appellant surrenders before the learned trial court on or before 10.09.2025, in that event, the learned trial court shall dispose of the case on the same day, keeping in mind that police after investigation submitted final form exonerating the appellant of the allegation as alleged in the FIR.

(Satyavrat Verma, J)

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