

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.929 of 2024

Arising Out of PS. Case No.-353 Year-2023 Thana- VIJAYEPUR District- Gopalganj

1. Kamlesh Kushwaha Son of Gorakh Kushwaha Resident of Village- Samahuti Tola Charkhiya, P.S.- Vijaipur, District- Gopalganj
2. Ramadhar Kushwaha Son of Bhirgurashan Kushwaha Resident of Village- Samahuti Tola Charkhiya, P.S.- Vijaipur, District- Gopalganj
3. Gorakh Kushwaha Son of Yamuna Kushwaha Resident of Village- Samahuti Tola Charkhiya, P.S.- Vijaipur, District- Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Bimlawati Devi Wife of Uttim Ram Resident of Village- Samahuti Tola Charkhiya, P.S.- Vijaipur, District- Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vyas Kumar Mishra, Advocate
For the State : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-08-2025 Heard Mr. Vyas Kumar Mishra, learned counsel for the appellants as well as Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. Despite of valid service of notice upon Respondent No. 2/Informant, no one appears on behalf of Respondent No. 2.

3. This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 05.01.2024 in A.B.P. No. 3200 of 2023 passed by



the learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Act, Gopalganj in connection with Vijaipur P.S. Case No. 353 of 2023 F.I.R. dated 25.11.2023 registered under Sections 341, 323, 354, 379, 504 and 506, 34 of the Indian Penal Code and Sections 3(1) (r)(s)(w), 3(2)(va) of the SC/ST (POA) Act.

4. The prosecution case, in brief, is that on 21.11.2023 at about 03:00 P.M. the informant along with her son Atul Kumar were going to Chakhiya from Samhuti on motorcycle and accused persons named in the F.I.R. were watering through delivery pipe by pumping set. The informant alighted from the motorcycle and crossing the delivery and her son was also crossing the motorcycle by foot. In the meantime, Kamlesh Kushwaha abused her by case name whereupon her son made protest of it then Ramadhar Kushwaha took the key of motorcycle and Kamlesh Kushwaha assaulted her sons with pipe four times due to which he fell down. When the informant went to lift him, then the three accused persons began molesting her and accused Kamlesh Kushwaha began pulling her clothes and Gorakh Kushwaha took out Rs. 500/- from the pocket of her son and began hurling abused them by derogating their caste name.



5. Learned counsel for the appellants submits that the appellants have clean antecedents and they have been falsely implicated in the present case and it appears from the F.I.R. that due to some petty dispute, the present occurrence has taken place and there is case and counter case between the parties. Appellant No. 1 has already filed the F.I.R. bearing Vijaipur P.S. Case No. 354 of 2023 against the Respondent No. 2 and his family members. It also appears from the F.I.R. that although the appellants are named in the F.I.R. but there is no specific allegation against the appellants rather there is general and omnibus allegation against all the accused persons including these appellants.

6. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for anticipatory bail of the appellants and submits that the appellants are named in the F.I.R. and 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 Casts and Scheduled Tribes Act is made out.

8. Considering the aforesaid facts that the appellants having clean antecedents and there is no specific allegation against the appellants in the F.I.R., although there is specific



allegation is against Kamlesh Kushwaha who is appellant no. 1 in the present case but there is no injury report on record or in the order of the impugned order which suggests that the son of the informant has received any injury, 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 Additional Sessions Judge-XI-cum-Exclusive Special Judge, under SC/ST Act, Gopalganj in connection with Vijaipur P.S. Case No. 353 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 along with other following conditions :-

(1) 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 bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move



for cancellation of bail.

(3) 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 antecedents, 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 dated 05.01.2024 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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