

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1646 of 2024

Arising Out of PS. Case No.-1 Year-2024 Thana- SC/ST District- Gopalganj

1. Mintu Lal Shrivastava @ Shyam Kumar S/o Late Phuldeolal Shrivastava @ Phuldeo Prasad Resident of Village- Gopalamath, P.S.- Thawe, District- Gopalganj
2. Sumitlal Shrivastava @ Sumit Kumar S/o Manojlal Shrivastava @ Manoj Kumar Resident of Village- Gopalamath, P.S.- Thawe, District- Gopalganj
3. Bholalal Shrivastava @ Sanu Kumar S/o Manojlal Shrivastava @ Manoj Kumar Resident of Village- Gopalamath, P.S.- Thawe, District- Gopalganj
4. Chulchul Shirvastava @ Deepak Kumar Shrivastava @ Chuchul Shrivastava S/o Late Phuldeolal Shrivastava @ Phuldeo Prasad Resident of Village- Gopalamath, P.S.- Thawe, District- Gopalganj
5. Rubi Devi W/o Manojlal Shivastava @ Manoj Kumar Resident of Village- Gopalamath, P.S.- Thawe, District- Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Bhuneshwar Ram S/o Late Janki Ram Resident of Village- Gopalmath, P.S.- Thawe, District- Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Adesh Raj, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 08-07-2025 Heard Mr. Adesh Raj, learned counsel for the appellants as well as Mrs. Usha Kumari 1, learned Spl.P.P. for the State.

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

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



28.02.2024 passed by the learned Court of XI Additional Sessions Judge-cum-Exclusive Special Judge under SC/ST Act, Gopalganj in A.B.P. No. 541 of 2024 arising out of Gopalganj SC/ST P.S. Case No. 01 and 2024, F.I.R. dated 04.01.2024 registered under Sections 341, 323, 379, 504/ 34 of the Indian Penal Code and Sections 3(1) (i) (r) (s) of the Scheduled Castes and Scheduled Tribes Act.

4. According to the prosecution case, when the informant went to the house of Nipu Lal for demanding motorcycle, the appellants came and assaulted him and abused him by caste name.

5. Learned counsel for the appellants submits that appellants are innocent and they have falsely been implicated in the present case. From bare perusal of the FIR it appears that there is no specific allegation of assault or overt act or abusing in caste named against these appellants rather the allegation levelled against them are general and omnibus and there is case and counter case between the parties and a Title Suit bearing Title Suit No. 215 of 2007 is pending before competent Court of Law, in between the parties. Although the informant has received injury but the injury report of the informant suggest that the injury inflicted upon him is simple in nature. 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.”

6. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the FIR and apart from that, the appellants have one criminal antecedents other than the present one but fairly submits that they are on bail in the pending matter.

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,



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) with two surities of the like amount each to the satisfaction of learned Court of XI Additional Sessions Judge-cum-Exclusive Special Judge under SC/ST Act, Gopalganj in A.B.P. No. 541 of 2024 arising out of Gopalganj SC/ST P.S. Case No. 01 and 2024, 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 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 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)

Suruchi/-

U		T	
---	--	---	--

