

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1960 of 2023

Arising Out of PS. Case No.-192 Year-2022 Thana- PAHARPUR District- East Champaran

Subhash Sah @ Subhash Kumar Son of Batkhar Sah Resident of Village -
Panditpur, Police Station - Paharpur, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Ram Son of Sivdayal Ram Resident of Village - Panditpur, Police
Station - Paharpur, District - East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 22-04-2025 Heard Mr. Anil Kumar, learned counsel for the

appellant and Ms. Usha Kumari No. 1, learned Special Public

Prosecutor for the State.

2. Despite of valid service of notice upon respondent
no. 2, no one appeared on behalf of the respondent no. 2.

3. This is an appeal under Sections 14(A)(2) against
refusal of the prayer for anticipatory bail by order dated
02.09.2022 passed by the learned Special Judge, SC/ST Act,
Motihari, East Champaran in ABP No. 2564 of 2022 in
connection with Paharipur P.S. Case No. 192 of 2022, F.I.R.
dated 03.06.2022 registered under Sections 341, 323, 379, 504,
506 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) of



the Scheduled Castes and Scheduled Tribes Act.

4. According to the prosecution case, the informant along with his father was going on motorcycle, then all accused persons including this appellant stopped the motorcycle of the informant and also abused them by taking their caste name.

5. Learned counsel for the appellant submits that appellant has clean antecedent 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. It appears that the F.I.R. instituted afterthought only to falsely implicated the appellant. Apart from that from the perusal of the F.I.R., it appears that the date of occurrence is 11.05.2022 but the present F.I.R has been instituted on 03.06.2022 i.e., after delay of more than twenty two days without giving any explanation of the said delay. Apart from that it appears that there is no specific allegation of assault or over act attributed against this appellant rather there is general and omnibus allegation against all the accused persons including this appellant and apart from that co-accused, namely, Bhola Yadav @ Bhola Kumar Yadav, Sanjay Yadav and Ram Milan Kumar @ Bhadai Yadav have been granted anticipatory bail vide order



dated 02.03.2023 in Cr. Appeal (SJ) No. 3868 of 2022 and other co-accused person, namely, Ramayan Sah has been granted bail vide order dated 12.07.2023 in Cr. Appeal (SJ) No. 991 of 2023 by Co-ordinate Bench of this Court.

6. Learned counsel appearing on behalf of the State has vehemently opposed the prayer for bail of the appellant.

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. Hence, consider the aforesaid facts that the appellant is having clean antecedent and there is no specific allegation of any assault or over act, let the appellant, above named, in the event of his arrest to 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 Special Judge, SC/ST Act, Motihari, East Champaran in connection with Paharipur P.S. Case No. 192 of 2022, 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.)

Jyoti Kumari/-

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