

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2226 of 2024

Arising Out of PS. Case No.-166 Year-2023 Thana- KHIRI MORE District- Patna

1. Mahendra Yadav Son of Late Sheopujan Yadav R/o Village - Mahuari, P.S.- Khiri More, District - Patna.
2. Udit Kumar Son of Mahendra Yadav R/o Village - Mahuari, P.S.- Khiri More, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Gulabi Devi Wife of Ganouri Mochi R/o Village - Mahuari, P.S.- Khiri More, District - Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dharendra Kumar Sinha, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.P.P.
For the Resp. No. 2	:	Mr. Akash Deep, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 29-07-2025 Heard Mr. Dharendra Kumar Sinha, learned counsel for the appellants, Mr. Sadanand Paswan, learned Special Public Prosecutor for the State and Mr. Akash Deep, learned counsel for the Respondent No. 2.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 26.04.2024 passed in A.B.P. No. 1353 of 2023 by the learned Exclusive Special Court, SC/ST Act, Patna in connection with Khiri More P.S. Case No. 166 of 2023, F.I.R. dated 01.11.2023 registered under Sections 341, 323, 354, 380, 504, 34 of the Indian Penal Code and Sections 3(1)(r)(s) of the Scheduled



Castes and Scheduled Tribes (POA) Act.

3. According to the prosecution case, the appellants along with other co-accused persons came and asked to open the gate. When one, Sanfula Devi opened the gate they put a country made pistol on her head. They took Rs. 5000/- cash and two gold earring from the box. It is further alleged that they caught her hairs and abused her by taking her caste name.

4. Learned counsel for the appellants submits that appellants are innocent and they have falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated. He further submits that due to some admitted land dispute, the present occurrence has taken place and a Title Suit No. 52 of 2022 is pending between the parties. It appears from the FIR itself that the alleged occurrence has taken place in the house of the appellants and hence, provision of the SC/ST Act shall not be attracted against the appellants. It is further submitted that the date of occurrence as alleged in the FIR is 31.10.2023 but the present FIR has been instituted on 01.11.2023 and the FIR was sent to the Court on 03.11.2023 i.e. after delay of two days, afterthought, only to falsely implicate the appellants. 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 appellants.

6. Learned counsel appearing on behalf of the Respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the F.I.R and apart from that the appellant no. 1 carries seven cases and appellant no. 2 carries two cases other than the present one but fairly submits on the basis of the supplementary affidavit that the appellants are on bail in the pending matters.

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 facts and circumstances of the case, due to admitted land dispute, the present occurrence has taken place and delay in lodging of the FIR, let the appellants, above named, in the event of their 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) each with two surities of the like amount each to the satisfaction of learned Exclusive Special Court, SC/ST Act, Patna in connection with Khiri More P.S. Case No. 166 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. 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)

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