

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2430 of 2024

Arising Out of PS. Case No.-549 Year-2023 Thana- KATEYA District- Gopalganj

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1. Shailesh Rai S/O Late Nand Kumar Rai R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.
 2. Chandan Rai S/O Late Nand Kumar Rai R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.
 3. Anshu Rai @ Anshu Kumar Roy @ Ansh Rai S/O Late Nand Kumar Rai R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.
 4. Bashishth Mishra S/O Late Babulala Mishra @ Misirji R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.
 5. Narotam Rai S/O Late Sampat Rai @ Briju Rai R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dhurendra Kumar S/O Chandrabali Gond R/O Village- Pathkhauli, P.S- Kateya, Distt.- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Subhash Kumar, Advocate
For the State : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 05-08-2025 Heard Mr. Subhash Kumar, learned counsel for the appellants as well as Mr. Binay Krishna, learned Special Public Prosecutor for the State.

2. Despite of 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) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail



by order dated 08.04.2024 in A.B.P. No. 724 of 2024 passed by the learned XIth Additional Sessions Judge-cum-Exclusive Special Judge, under SC/ST Act, Gopalganj in connection with Kateya P.S. Case No. 549 of 2023 registered under Sections 341, 323, 324, 379, 504/34 of the Indian Penal Code and Sections 3(1) (r)(s), 3(2)(Va) of the SC & ST (Prevention of Atrocities) Act.

4. Allegation against the appellants is that he along with other co-accused persons have assaulted the informant with lathi, danda and farsa due to which he sustained head injuries and abusing his caste name.

5. Learned counsel for the appellants submits that the appellant nos. 1 to 3 having clean antecedent and appellant no. 4 carries one case and appellant no. 5 carries three more cases other than the present one but the appellant no. 4 and 5 are on bail in the pending matters. He further submits that it appears from the F.I.R. itself that due to admitted land dispute the present occurrence had taken place and there is case and counter case between the parties and it also appears from Annexure-3 of the bail petition that the appellants are owner of the land in question. Although, the appellants are named in the F.I.R. but there is no specific allegation against these appellants in the



F.I.R. Learned counsel for the appellants has relied upon a judgment in the case of **Hitesh Verma Vs. The State of Uttarakhand & Anr., reported in (2020) 10 SCC 710, paragraph-18** which reads as follows:-

“18. 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. 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.

7. Learned Special Public Prosecutor for the State, on the other hand, 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 assaulted the informant and their family members.

8. Considering the aforesaid facts and circumstances of the case, 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 XIth Additional Sessions Judge-cum-Exclusive Special Judge under SC/ST Act, Gopalganj in connection with Kateya P.S. Case No. 549 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 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 dated 08.04.2024 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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