

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2099 of 2025

Arising Out of PS. Case No.-10 Year-2025 Thana- SC/ST District- Nawada

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1. Rajaram Chauhan @ Abhay Raj S/o- Rambali Chauhan Singh Village- Bhalua Sabhri PS-Nardiganj, Dist- Nawada
 2. Ramashish Chauhan S/o- Jamuna Chauhan Village- Bhalua Sabhri PS-Nardiganj, Dist- Nawada
 3. Azad Kumar S/o- Ramashish Chauhan Village- Bhalua Sabhri PS-Nardiganj, Dist- Nawada
 4. Mukesh Chauhan @ Mukesh Kumar Chauhan S/o- Harilal Chauhan Village- Bhalua Sabhri PS-Nardiganj, Dist- Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Kalwa Devi W/o- Manoj Chaudhari Village- Bhalua PS-Nardiganj, Dist- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Neeraj Kumar Sanidh, Adv. Mr. Vivek Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Special PP.
For Respondent No.2	:	Mr. Sunil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 12-11-2025 Heard Mr. Neeraj Kumar Sanidh, learned counsel

for the appellant duly assisted by Mr. Vivek Kumar Sinha,

learned counsel, Mr. Sunil Kumar, learned counsel representing

Respondent/Opposite Party No.2 and Mr. Binay Krishna learned

Special P.P.

2. The instant memo of appeal has been filed for

setting aside order dated 28.04.2025 passed by I/C Special

Judge, Exclusive Special Court, SC/ST (POA) Act, Nawada in



A.B.P No. 1000 of 2025 arising out of SC/ST PS Case No. 10/2025 for an offence punishable under Section 126(2), 127(3), 115(2), 351(2), 109, 3(5), 76 of BNS and Sections 3(1)(i), 3(1)(r), 3(1)(s), 3(1)(w), 3(2) (va) of SC/ST (POA) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

3. As per the prosecution case, while the informant, on 17.02.2025 at 08:00 AM had gone to ease herself by the bank of river of her village, the accused persons, namely, Rajaram Chauhan (appellant no.1), Pintu Kumar, Inderdev Chauhan, Ramashish Chauhan (appellant no.2), Azad Kumar (appellant no.3), Mukesh Chauhan (appellant no.4), Suraj Kumar, Charitra Chauhan and Rahul Chauhan who were present there from before, mishandled, abused using castiest slur, assaulted and outraged the modesty of the informant. When she protested to the said incident, Ramshish Chauhan (appellant no.2) assaulted on her face causing injury and tried to outrage her modesty by disrobing her. It has further been alleged that on her cry, her family members arrived there to rescue her. Thereafter, all the accused persons assaulted the family members of the informant wherein one Dinesh was assaulted by on his head causing head injury, Ajay was assaulted by Rajaram ((appellant no.1) and Azad (appellant no.3) by means of rod on his hand causing



serious injury, Manpurni Devi was assaulted by means of *lathi* causing injury on her thigh which led her unconscious.

4. Learned counsel for the appellants submits that the appellants are innocent and they have not committed any offence as alleged in the FIR. It has next been submitted that as per FIR, the incident is said to have taken place at about 8.00 AM in the morning in an open place, where the informant while other persons had gone to attend natural call. It has next been submitted that there is nothing specific against these appellants and the allegations are general and omnibus in nature. Insofar as the allegation with respect to making castiest slur is concerned, that has not been committed in public view as it was in an open place. Learned counsel further submits that there had been an incidence of stone pelting alleged to have been made by all the accused persons pursuant to which the injuries are said to have been caused to the informant and her family members namely, Dinesh, Ajay and Manpurni Devi and as such, nothing specific could be found out to find complicity of these appellants.

5. On the other hand, learned counsel representing the informant submits that from the FIR itself, it would be evident that the appellants have assaulted the informant and also tried to outrage her modesty and when the accused persons were intervened by her family members, they were also assaulted



brutally. It is further submitted that the entire incident has taken place in public view because the place where the incident has taken place, was being used for the purpose of attending natural call and is an open place being used for selling sand which is said to have been objected by the accused persons and therefore, the entire incident has taken place. As such, the offence under Section Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) is attracted against these appellants and therefore, the anticipatory bail application is not maintainable in the light of provision of section 18 of the SC/ST (POA) Act.

6. In view of the dictum of Hon'ble Apex Court rendered in the case of ***Kiran vs. Rajkumar Jivraj Jain & Anr. (Special Leave Petition (Crl) No. 8169 of 2025)*** reported in ***2025 Livelaw (SC) 869*** wherein the Hon'ble Apex Court has held that anticipatory bail is permissible under SC/ST Act only if *prima facie* offence is not made out though such bar under Section 18 of the SC/ST Act which excludes the application of Section 438 CrPC, is not absolute. The Court while exercising the powers of anticipatory bail is required to verify the complaint's averments and determine if a *prima facie* case is established and the Court is not permitted to conduct a 'mini-trial' by evaluating evidences or other materials. The bar on



anticipatory bail under Section 18 is intended to uphold the objectives of legislation in protecting the vulnerable SC/ST communities and ensuring social justice. The denial of anticipatory bail for these offences is not considered unreasonable or a violation of Article 14 of Constitution of India, as these offences are a distinct class and the bar which has been provided in not maintaining anticipatory bail has not been held to be violative of Article 21.

7. With respect to the incident occurring outside the complainant's house, for which the act done within a public view has also been defined, wherein it has been held that the caste nexus has to be established and the humiliation which is sought to be made by the accused persons must indicate clear intention for committing such offences. While defining the 'public view' as provided under Section 3(1)(s) & (r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Hon'ble Apex Court in the aforesaid case has held that in an incident occurring in location like a lawn outside a house, which can be seen by someone from the road, would be considered a place within 'public view'.

8. Considering the submission of the parties and from plain reading of the FIR and the materials available on record, it



would be evident that there is general and omnibus allegation against appellant no. 4 while with regard to appellant nos. 1, 2 and 3, there is specific allegation of overt-act pursuant to which the injuries are said to have sustained by the informant and her family members. Hence the appellants no. 4 has made out a case for grant of anticipatory bail while against appellants no. 1, 2 and 3, there being specific allegation of overt act and the offence, which is said to have been committed, is supported with the material available on record and also the offence under Section Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) is, *prima facie*, attracted against these appellants, therefore, this Court is not inclined to grant the privilege of the anticipatory bail to appellant nos. 1, Rajaram Chauhan, appellant no.2, Ramashish Chauhan and appellant no.3, Azad Kumar, respectively. Accordingly, the prayer for anticipatory bail of these appellants, namely, Rajaram Chauhan, Ramashish Chauhan and Azad Kumar, stands rejected.

9. So far as appellant nos. 4, Mukesh Chauhan @ Mukesh Kumar Chauhan is concerned, he in the event of arrest or surrender within a period of eight weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten



thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, SC/ST (POA) Act, Nawada in A.B.P No. 1000 of 2025 arising out of SC/ST PS Case No. 10/2025.

10. The instant memo of appeal stands allowed in part.

(Ajit Kumar, J)

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