

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2391 of 2025

Arising Out of PS. Case No.-27 Year-2025 Thana- PHULWARISHARIF District- Patna

1. Kunj Bihari Rai Son of Late Kishun Dayal Rai Resident of village - Phulia Tola, P.S.- Phulwarisharif, District - Patna.
2. Kundan Kumar Son of Kunj Bihari Rai Resident of village - Phulia Tola, P.S.- Phulwarisharif, District - Patna.

... .. Appellants.

Versus

1. The State of Bihar.
2. Bhim Paswan Son of Late Ramnarayan Paswan Resident of village - Chak Chehaul, P.S.- Naubatpur, District - Patna.

... .. Respondents.

Appearance :

For the Appellants	:	Mr. Pushpendra Kumar Singh, Advocate Mrs. Divya Bharti, Advocate
For the State	:	Mrs. Usha Kumari-1, Special P.P.
For the Respondent No.2:		Mr. Lakshaman Pandey, Advocate Mr. Ashok Kumar Jha, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 21-11-2025 Heard learned counsel for the appellants, learned counsel for the respondent no.2 and learned Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 28.05.2025 passed by learned Exclusive Special Judge (SC/ST Act), Patna in connection with Phulwarisharif P.S. Case No. 27 of 2025 registered under Sections 329 (4), 126 (2), 115 (2), 308 (3), 352 and 3 (5) of the B.N.S. and Section 3(1) (r) (s) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act.

3. The case of the prosecution as disclosed in the F.I.R., in brief, is that while the informant along with labourers was cleaning the bushes, the appellants along with other co-accused persons reached there, hurled abusive language in the name of caste and also assaulted them.

4. It is submitted by learned counsel for the appellants that it would be apparent from the first information report itself that the dispute had taken place on account of construction of a boundary wall due to land dispute between the parties, hence nothing was done for the purposes of humiliating a particular community. In such view of the matter, no offence under the provisions of SC/ST Act would be made out. It is further submitted that the first information report was lodged after due thought and deliberation after delay of one day under the influence of the husband of the land lady, who is a Police Officer and the present informant, who is mere a labour, has been set up by them. It is also a fact that niece of the appellant no.1 has already sold the shop to the land lady for which a title suit is pending between them and it is on account of that the present case with the false and concocted allegations has been lodged. Further, the appellants are father and son and appellant no.1 is aged about 73 years, while appellant no.2 resides elsewhere.

5. Learned Special Public Prosecutor for the State and learned counsel for the respondent no.2 opposed the prayer for bail



on the ground of allegations made in the F.I.R.

6. It *prima facie* appears that the occurrence has not taken place in public view and hence the provisions of SC/ST Act would not get attracted.

7. Taking into consideration the facts and circumstances of the case and also considering the fact that there is delay in lodging the F.I.R. coupled with the fact that there is *inter se* land dispute in the form of title suit as also the fact that no serious injury has been suffered by anyone during the alleged occurrence, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge (SC/ST Act), Patna in connection with Phulwarisharif P.S. Case No.27 of 2025, subject to the condition as laid down under Section 482 (2) of the BNSS.

8. Accordingly, the impugned order is set aside and this appeal is allowed.

(Soni Shrivastava, J)

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