

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3043 of 2024

Arising Out of PS. Case No.-107 Year-2021 Thana- ROSERA District- Samastipur

Raju Mahto Son of Late Jangal Mahto R/O Vill.- Sahiyar Bujurg, Ward no. 4,
P.S.- Rosara, Dist.- Samastipur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Sunil Ram Son of Late Khedu Ram R/O Vill.- Sahiyar Bujurg, Ward no. 4,
P.S.- Rosara, Dist.- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajeev Ranjan No. II
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 17-11-2025 Heard the parties.

2. The present appeal is directed against the order dated 02.05.2024 passed by the learned Special Judge-SC/ST (POA) Act, Samastipur in ABP No. 1317 of 2024 in C.R. No. 328 of 2021, TR No. 1790 of 2024, in which cognizance has been taken for the offences under Sections 323, 427, 504 of the Indian Penal Code and Section 3(1)(r)/3(1)(s) of the SC/ST Act, in connection with Rosera P.S. Case No. 107 of 2021, whereby learned court has rejected the anticipatory bail of the appellant.

3. Materials available on record postulate that the respondent No. 2 has filed a complaint case bearing No. 36 of 2021 alleging therein that in the morning of the fateful day all



the named accused persons, including the appellant, armed with *lathi*, *danda*, iron rod and spade came at the place of occurrence and started destroying the hut of the respondent No. 2. When the same was objected; on the exhortation made by the appellant, other accused persons assaulted the respondent No. 2 and others. It is further alleged that the informant belongs to vulnerable section of the society and the accused persons belong to a member of forward caste and thus they are influential persons of the village. The complaint was later on sent to the concerned police station and accordingly FIR has been instituted.

4. Learned Advocate for the appellant submits that besides the delay in filing of complaint, there is omnibus allegation of assault and intimidation; it is the fact that during investigation, the case of the informant has been found false and the appellant and others have not been sent up for trial; however, on pretest petition, the learned court has taken cognizance for the offences as alleged in the FIR. Referring to the protest petition, it is further submitted that there is further improvisation which also shows *malafide* on the part of the respondent No. 2. The reason behind the said occurrence is said to be a dispute arising out of construction of drainage and the instigation made



by some unscrupulous person. It is lastly contended that the appellant has absolutely fair antecedent and all the more Section 18 of the SC/ST (POA) Act, 1989 with express language though excludes the applicability of Section 438 of the Cr.P.C. in relation to the arrest of a person who faces specific accusation but is not an absolute term, in case, where materials available on record are not sufficient enough to constitute that intimidation or insult is made only to target intentionally to the members of the SC/ST community because they belong to vulnerable section of the society. The accused persons in such cases have right to get the remedy of anticipatory bail. To support the aforesaid contention, reliance has also been placed on a decision rendered by the Apex Court in the case of ***Kiran vs. Rajkumar Jivraj Jain & Anr. [Special Leave Petition (CRL.) No. 8169 of 2025]***.

5. On the other hand, learned Spl. PP for the State as well as learned Advocate for respondent no.2 vehemently opposed the prayer of the appellant and submitted that in view of the mandate of the Apex Court in the case of ***Bachu Das vs. State of Bihar & Anr. [(2014) 3 SCC 471]***, once cognizance has been taken under the penal provisions of the SC/ST Act, the anticipatory bail application is not maintainable. There is specific allegation against the appellant of participation in the



crime, besides using abusive language by taking case name of respondent No. 2.

6. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the fact of delay in lodging of the complaint case, coupled with the fact that the police after investigation found the case not true and later on cognizance has been taken on a protest petition, besides the lack of material to suggest that the insult or intimidation has been made only with a view to lower down the prestige of the complainant/informant, that too, in public view . There is no allegation that other persons were present at the place of occurrence, except the family members of the informant; as also the mandate of the Three-Judge Bench of the Hon'ble Supreme Court in the case of *Hitesh Verma vs. State of Uttarakhand & Anr. [(2020) 10 SCC 710]* that every insult or intimidation does not attract the offence under Section 3(1) of the SC/ST Act, unless it is targeted intentionally to the members of the SC/ST community because they belong to vulnerable section of the society, besides the fair antecedent of the appellant, let the above named appellant, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing



bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge-SC/ST (POA) Act, Samastipur in connection with CR No. 328 of 2021, TR No. 1790 of 2024, subject to the condition as laid down under Section 482(2) of the BNSS, with further condition that one of the bailors shall be the own/close family members of the appellant.

7. The impugned order dated 02.05.2024 passed in ABP No. 1317 of 2024 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

Anjani/-

U		T	
---	--	---	--

