

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3145 of 2024

Arising Out of PS. Case No.-394 Year-2024 Thana- BIHTA District- Patna

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1. Rajdeo Mistry S/o- Rajendra Mistry @ Rajndra Mistry Village- Katesar Chak PS-Bihta Dist- Patna
 2. Sudhir Mistry @ Sudhir Kumar son of Biteshwar Mistry Village- Katesar Chak PS-Bihta Dist- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalan Paswan Son Ram Sebak Paswan Village- Katesar Chak PS-Bihta Dist- Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar, Advocate
For the Respondent/s	:	Mr. Sanjeev Kumar, Advocate
For the State	:	Ms. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 29-07-2025 Heard Mr. Ajay Kumar, learned counsel for the appellants, Mr. Sanjeev Kumar, learned counsel for the respondent No.2 as well as Ms. Usha Kumari 1, learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 15.06.2024 passed by the learned Special Judge SC/ST, Patna in connection with Bihta P.S. Case No.394 of 2024, F.I.R. dated 29.04.2024 registered under Sections 147, 149, 341, 323, 337, 307, 326, 354 of the Indian Penal Code and Sections 3(1) (r) / 3(2) (va) of the Scheduled Castes and Scheduled Tribes Act.



3. According to the prosecution case, on 29.04.2024 at 11:00 A.M., informant Lalan Paswan reported that villagers Rajendra Mistri, Rajdev Mistri, Biteshwar Mistri, Anil Mistri, Deepak Mistri, Hira Lal Kripal, Sudhir Kumar, and Ashok Kumar attacked his family over a land dispute. They threw bricks and stones, injuring Muti Chhdi Devi (breaking her teeth) and 12-year-old Phul Kumari. An FIR was lodged.

4. Learned counsel for the appellants submits that the appellants have clean antecedent and they have falsely been implicated in the present case. From a bare perusal of F.I.R., it appears that due to admitted land dispute, the present occurrence had taken place. There is case and counter case between the parties and in retaliation, the appellants have pelted stones upon the informant and his family members. Learned counsel for the appellants further submits that although, the appellants are named in the F.I.R., but from a bare perusal of the F.I.R., it appears that there is no specific allegation of any assault or overt act attributed against the appellants rather there is general and omnibus allegations against all the accused persons, including the appellants. Apart from that in view of the judgment in the case of *Hitesh Verma v. State of Uttarakhand & others reported in (2020) 10 SCC 710*, paragraph -18 which



reads as under:-

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.'

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 Special Public Prosecutor for the State as well as learned counsel for the respondent No.2 have vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the F.I.R. and there is direct and specific allegation against them that they along with other co-accused persons have pelted stones upon the informant and his family members.

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 aforesaid facts and circumstances, the appellants have clean antecedent, there is no specific allegation of any assault or overt act attributed against all the appellants rather there is general and omnibus allegations against all the accused persons, including the appellants and apart from that in the background of land dispute, no case is made out under the SC/ST Act against the appellants, 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 Exclusive Special Judge SC/ST Act, Patna in connection with Bihta P.S. Case No.394 of 2024, 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 tamper 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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