

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3110 of 2024

Arising Out of PS. Case No.-5 Year-2024 Thana- SAMHO District- Begusarai

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1. Ramashraya Yadav, aged about 38 years, male, son of Bito Yadav,
 2. Nitish Kumar aged about 21 years, mael, son of Aado Yadav,
Both Residents of Village- Akha Kurha, P.S.- Shamho, District- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Bubly Devi Wife Of Rajesh Paswan R/O- Village- Akha Kurha, P.S.-
Shamho, Distt.- Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Jitendra Narain Sinha, Advocate
For the Informant	:	Mr. Sunny Prasad, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 17-12-2025 Heard Mr. Jitendra Narain Sinha, learned counsel

appearing on behalf of the appellants; Mr. Sunny Prasad,

learned counsel for OP No.2 and Mr. Sadanand Paswan, learned

Spl. PP for the State.

2. The appellants have preferred appeal under Section
14(A) (2) of Scheduled Caste and Scheduled Tribes (Prevention
of Atrocities) Act against the rejection of prayer for pre-arrest
bail, vide order dated 26.04.2024 passed by the learned
Exclusive Special Judge, SC/ST (PoA) Act, Begusarai in ABA
No.625 of 2024 arising out of Samho PS Case No.05 of 2024,
registered for the offenes under Sections 341, 323, 447, 448,



325, 307, 354, 504 and 506 of the Indian Penal Code and Section 3(i)(r)(s), 3(2)(va) of SC/ST (POA) Act.

3. As per the allegation made in the F.I.R., appellants along with other accused persons had entered into the house of the informant and abused and assaulted her and her son by means of *lathi-danda* causing injury. Informant belongs to Scheduled Caste and, as such, FIR under Sections 3(i)(r)(s) and 3(2)(va) has been lodged for abusing and taking caste name.

4. Learned counsel appearing on behalf of the appellants submitted that the incident has taken place inside the house of the informant and the same is not in public view. No specific allegation has been made against the appellants for using abusive language or taking caste name of the informant, rather, the specific allegation of taking caste name and assaulting the informant is against one Rahul Yadav. He further submitted that injury sustained by the son of the informant has been opined by the doctor to be simple in nature. On these grounds, the learned counsel submitted that the allegation being general and omnibus, the appellants seek to be released on pre-arrest bail.

5. *Per contra*, learned counsel appearing on behalf of O.P. No.2 has submitted that the Apex Court in the case of



Kiran Vs. Rajkumar Juvraj Jain & Anr. in Special Leave Petition (CRL.) No.8169 of 2025, while emphasizing the operational ambit of Section 18 of the SC/ST Act, held that allowing anticipatory bail by the High Court was unwarranted. On these grounds, the appellants do not deserve to be released on bail and their case may be dismissed.

6. Mr. Sadanand Paswan, learned Spl. P.P. submitted that in the recent judgment, the Apex Court while considering the scope of Section 18 of SC/ST Act has observed that only in the cases where offence can not be said to have been made out on a very *prima facie* consideration, the court may exercise discretion to grant pre-arrest bail to the accused.

7. To appreciate the rival submissions, it will be apposite to refer to the provisions of Sections 3(i)(r)(s) and 3(2)(va) of SC/ST Act, which is *inter alia* as follows : -

“3. Punishments for offences of atrocities.-

(1) (r) Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

3 (2)Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;”



8. The term “any place within public view” initially came for consideration before the Apex Court in case of **Swaran Singh & Ors. Vs. State through Standing Counsel & Anr.** reported in **(2008) 8 SCC 435**. In the case of **Hitesh Verma Vs. State of Uttarakhand & Anr.** reported in **(2008) 8 SCC 435**, the Apex Court had reiterated the legal position in paragraph no.14 which is as under :

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed.: This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under : (SCC pp. 443-44, para 28)

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the



boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

9. A reference in this regard can also be taken to a recent judgment passed in the case of ***Karuppudayar Vs. State Rep. By the Deputy Superintendent of Police, Lalgudi Tricy & Ors.*** arising out of ***Special Leave Petition (criminal) No.8778-8779 of 2024***), reported in ***2025 INSC 132***.

10. Having considered the rival submissions made on behalf of the parties, as well as, having thoughtfully read the allegation made in the FIR and case diary, I find that the incident has taken place inside the house of the informant and the same is not in public view. No specific allegation has been made against the appellants for using abusive language or taking caste name of the informant, rather, the specific allegation of taking caste name and assaulting the informant is against one Rahul Yadav. Injury sustained by the son of the informant has been opined by the doctor to be simple in nature. I find that the appellants have *prima facie* made out a case to be released on



bail.

11. The appellants, above named, are directed to be released on pre-arrest bail, in the even of their arrest or surrender before the learned court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each tot he satisfaction of the learned District Court where the case is pending in connection with ABA No.625 of 2024 arising out of Samho PS Case No.05 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/482 of the BNSS.

12. Accordingly, the impugned order is set aside and the present appeal is allowed.

(Purnendu Singh, J)

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