

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.3407 of 2024

Arising Out of PS. Case No.-24 Year-2022 Thana- SC/ST District- Bhojpur

Mukesh Kumar SON OF SURESH RAI VILLAGE- NARHI, PS- CHANDI,
DIST- BHOJPUR

... .. Appellant/s

Versus

1. The State of Bihar
2. MANTU KUMAR SON OF SUDARSHAN PRASAD VILLAGE- NARHI,
PS- CHANDI, DIST- BHOJPUR

... .. Respondent/s

Appearance :

For the Appellant/s : Ms.Ojaswee Kumari

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 17-11-2025 Heard the parties.

2. The present appeal has been preferred against the order dated 05.06.2024 passed in ABP No. 1429 of 2024 by the learned 1st Additional Sessions Judge cum Special Judge- Scheduled Castes/Scheduled Tribes Act, Bhojpur at Ara in connection with SC/ST Case No. 24 of 2024 registered for the offences punishable under Sections 341, 323, 188/34 of the Indian Penal Code and Section 3(i)(r)(s) 3(2) (va) of the of the SC/ST Act, whereby prayer of the appellant for grant of anticipatory bail came to be turned down.

3. Allegedly, on the fateful day, while the respondent No. 2 (informant) and others were on the way, in the meanwhile, they were brutally assaulted by all the accused persons,



including the appellant, by taking caste name of the informant.

4. Learned Advocate for the appellant submitted that besides the fact the appellant being a Constable in Fire brigade at Forbesganj, Araria and on the alleged date of occurrence he was not even present, the police after investigation did not find any complicity of the appellant and accordingly, submitted a final form showing the appellant as innocent and did not send him for trial. To support the aforesaid contention, final form/report has been placed on record as Annexure-4 to the memo of appeal. Despite the aforesaid fact, the learned jurisdictional court differing with the final report has taken cognizance for the offences as alleged in the FIR. It is further contended that there is omnibus nature of allegation against all the accused persons and it has not been disclosed that the occurrence has taken place in public view as the persons, who were present there were none else but the family members or the friends of respondent No. 2. It is lastly contended that be that as it may, the appellant has no criminal antecedent.

5. On the other hand, learned Advocate for the State vehemently opposed the prayer of the appellant and submitted that the allegation clearly attracts the penal provisions of the SC/ST Act.



6. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the omnibus nature of allegation as also the submission that the occurrence was not taken place in a public view as, except the informant and his family members/friends, there were none to see the occurrence; besides the assault and intimidation has not been done on account of the victim belonging to a member of vulnerable society, and thus, *prima facie*, would not attract the penal provision of SC/ST Act, 1989 in view of the decision rendered by a Three-Judge Bench of the Hon'ble Supreme Court in the case of ***Hitesh Verma vs. State of Uttarakhand & Anr. [(2020) 10 SCC 710]***, 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 1st Additional and Sessions Judge cum Special Judge, SC/ST Act, Bhojpur at Ara in connection with SC/ST P.S. Case No. 24 of 2022, 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 05.06.2024 is hereby set
aside and the present appeal is allowed.

(Harish Kumar, J)

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