

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3529 of 2024

Arising Out of PS. Case No.-130 Year-2024 Thana- BARACHATTI District- Gaya

- 1. Saroj Devi wife of Dev Lal Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 2. Gita Devi wife of Upendra yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 3. Manju Devi wife of Birendra yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 4. Gauriya Devi wife of Surendra Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 5. Kabutari Devi wife of Rohan Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 6. Muneshwar yadav @ Surendra yadav @ Muneshar yadav son of Pitambar Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 7. Rohan Yadav son of Pitambar yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 8. Birendra Yadav son of Pitambar Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 9. Dev Lal Yadav Son of Pitambar Yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya
- 10. Upendra Yadav @ Upendra Kumar son of Pitambar yadav Village- Hariyadag Ps- Mohanpur Dist- Gaya

... .. Appellant/s

Versus

- 1. The State of Bihar Bihar
- 2. Jaliya Devi wife of Babu Lal Manjhi Village- Mathurapur Ps- Mohanpur Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shivendra Prasad, Advocate
For the State : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 05-08-2025 Heard Mr. Shivendra Prasad, learned counsel for the

appellants as well as Mr. Binay Krishna, learned Special Public

Prosecutor for the State.



2. Despite of valid service of notice upon Respondent No. 2, no one appears on behalf of Respondent No. 2.

3. Learned counsel for the appellants submits that during the pendency of the present anticipatory bail petition, the appellant nos. 6 to 9 namely, Muneshwar Yadav @ Surendra Yadav, Rohan Yadav, Birendra Yadav and Dev Lal Yadav have been arrested/surrendered and hence learned counsel for the appellants seeks permission to withdraw the present anticipatory bail petition with respect to appellant nos. 6 to 9 namely, Muneshwar Yadav @ Surendra Yadav, Rohan Yadav, Birendra Yadav and Dev Lal Yadav as having become infructuous.

4. Permission is accorded.

5. The anticipatory bail petition with respect to appellant nos. 6 to 9 namely, Muneshwar Yadav @ Surendra Yadav, Rohan Yadav, Birendra Yadav and Dev Lal Yadav is dismissed as withdrawn.

6. This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 25.05.2024 in A.B.P. No. 161 of 2024 passed by the learned Exclusive Special Judge, SC/ST, Gaya in connection with Barachatti (Mohanpur) P.S. Case No. 130 of 2024, F.I.R.



dated 27.02.2024, registered under Sections 147, 149, 341, 323, 307, 504, 506 of the Indian Penal Code and Sections 3(1) (r)(s) and 3(2)(v-a) of the SC & ST (Prevention of Atrocities) Act.

7. Allegation against the appellants is of assaulting, outrage the modesty of the informant and abusing to the victim by her caste name.

8. Learned counsel for the appellants (except appellants nos. 6 to 9) submits that the appellants have clean antecedents and they have been falsely implicated in the present case. In fact, the appellant nos. 1 to 5 is not named in the F.I.R. and it is mentioned in the F.I.R. the wife of named accused persons. He further submits that it appears from the F.I.R. itself that there is no specific allegation of any assault or overt act or abusing attributed against these appellants rather there is general and omnibus allegation against the accused persons including these appellants. In fact, it appears from the F.I.R. itself that the informant and family members have constructed the hut in land which was belonged to the appellants and due to this reason, the present occurrence had taken place which suggests that due to land dispute the present occurrence has taken place and in view of the judgment in the case of **Hitesh Verma Vs. The State of Uttarakhand & Anr., reported in (2020) 10 SCC 710,**



paragraph-18 which reads as follows:-

“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.

9. 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.

10. Learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellants (except appellant nos. 6 to 9).

11. Considering the aforesaid facts and circumstances of the case, let the appellants (except appellant nos. 6 to 9),



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, Gaya in connection with Barachatti (Mohanpur) P.S. Case No. 130 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 along with other following conditions :-

(1) Appellants (except appellant nos. 6 to 9) 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 bonds shall be cancelled by the Court below.

(2) If the appellants (except appellant nos. 6 to 9) tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the appellants (except appellant nos. 6 to 9) and in case at any stage, it is found that the



appellants (except appellant nos. 6 to 9) have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants (except appellant nos. 6 to 9). 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.

12. Accordingly, the impugned order dated 25.05.2024 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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