

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3379 of 2022

Arising Out of PS. Case No.-34 Year-2022 Thana- DAGARUA District- Purnia

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1. Asha Devi D/O Jyotish Mandal @ Jyotish Prasad Mandal
 2. Ajit Mandal @ Ajit Kumar S/O Jyotish Mandal @ Jyotish Prasad Mandal
 3. Abhishek @ Abhishek Kumar S/O Manoj Mandal
 4. Gita Devi W/O Madan Mandal
All Resident of Village- Baneli, P.S.- Dagarua, District- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mangal Tudu S/O Late Ram Kishana Tudy Resident of village- Rupauli,
P.S.- Dagarua, District- Purnea

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bijendra Kumar Singh, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-04-2025 Despite of valid service upon respondent No.2, no one
appears on behalf of respondent No.2.

2. Heard Mr.Bijendra Kumar Singh, learned counsel
for the appellants and Mr.Sadanand Paswan,learned Spl.P.P. for
the State.

3. 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 06.09.2022 in A.B.P. No.73 of 2022/CIS No.73
of 2022 passed by the learned 1st Additional Sessions Judge-



cum-Special Judge SC/ST Act, Purnea in connection with Dagarua P.S.Case No. 34 of 2022, FIR dated 02.04.2022 registered under Sections 341,323,379,504,506/34 of the Indian Penal Code as well as under Sections 3(i)(r)(s),3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

4. The case of the prosecution as alleged by the informant is that he is Manager of one Akhilesh Kumar and looks after his land which is about 03 acres, 88 decimals at Mauza-Banaili. It is next alleged that on 07.02.2022, the accused persons including the appellants came variously armed and with the help of five labourers were putting soil on the land. It is next alleged that on such information, the informant along with Prasadi Mandal reached the place of occurrence and objected the act of the appellants. Thereafter, it is alleged that he was abused by taking caste name and Madan Mandal took out Rs.700/- from his pocket and on intervention of the neighbours, the situation normalized. It is further alleged that when informant was returning to his house when Geeta Devi and Asha Devi abused him by taking caste name and also threatened that he will be shot.

5. Learned counsel for the appellant submits that the appellants have falsely been implicated in the present case. It



appears from the FIR itself that due to admitted land dispute, the present occurrence had taken place and from a bare perusal of the FIR it appears that although the appellants are named in the FIR but there is no specific allegation of any assault or overt-act attributed against the appellants rather there is general and omnibus allegation against all the accused persons including the appellants and allegation of theft of Rs. 700/- from the pocket of the informant is against co-accused person, namely, Madan Mandal @ Madan Lal Mandal and the same is ornamental in nature and co-accused person, namely, Madan Mandal @ Madan Lal Mandal has been granted privilege of anticipatory bail by a Coordinate Bench of this Hon'ble Court vide order dated 19.10.2024 passed in Cr.Appeal (SJ) No. 2602 of 2022. Apart from that 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.

6. 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.

7. The learned Spl.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the appellants and submits that appellant Nos. 1,3 and 4 carry one more case and appellant No.2 carries two more cases other than the present one.

8. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Schedule Castes and Scheduled Tribes Act is made out.

9. Considering the aforesaid fact, there is no specific allegation of any assault or overt-act attributed against the appellants, it transpires from the FIR itself that due to admitted land dispute the present occurrence had taken place



and apart from that, co-accused person, namely, Madan Mandal @ Madan Lal Mandal has been granted privilege of anticipatory bail by a Coordinate Bench of this Hon'ble Court, 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 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Purnea in connection Dagarua P.S.Case No. 34 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the BNSS, 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.

10. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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