

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4205 of 2024

Arising Out of PS. Case No.-212 Year-2024 Thana- CHANDAUTI District- Gaya

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1. Kapil Yadav Son of Late Dukhan Yadav
 2. Prem Yadav Son of Late Dukhan Yadav
 3. Chinta Devi Wife of Kapil Yadav
All R/o village- Agraili kala, Ps- Chandauti, Dist- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Babita Devi Wife of Satendra Paswan R/o village- Agraili kala, Ps- Chandauti, Dist- Gaya

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 13-05-2025 Heard Mr.Praveen Kumar, learned counsel for the appellant, learned counsel for respondent No.2 and Mr.Sadanand Paswan, learned Spl.P.P. for the State.

2. 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 30.07.2024 in A.B.P. No.238 of 2024 arising out of Chandauti P.S.Case No.212 of 2024 dated 06.06.2024 passed by the learned Exclusive Special Judge SC/ST Act, Gaya registered under Sections 341, 323,324,379,504,506 and 34 of the Indian Penal Code as well as under Sections 3(1)(r)(s) and



3(2)(v-a) of the Scheduled Castes and Scheduled Tribes Act.

3. The prosecution story (in brief) is that on 02-06-2024, informant neighbor had gone to measure his land. In which informant neighbor house is built on his land. When she started stopping them on this matter. All the accused persons started abusing and assaulting with stick and rod and snatched gold Jitiya when informant's son Rahul and Rajeev came to rescue then all the accused persons also assaulted the informant's son.

4. Learned counsel for the appellants submits that the appellants have clean antecedent and they have falsely been implicated in the present case. It appears from the FIR itself that the date of occurrence as alleged in the FIR is 02.06.2024 but the present FIR has been instituted on 06.06.2024 after delay of four days without giving any explanation of delay afterthought only to falsely implicate the appellants and apart from that, from a bare perusal of the FIR it transpired that due to admitted land dispute the present occurrence had 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.

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. The learned counsel for respondent No.2 as well as learned Spl.P.P. for the State have vehemently opposed the prayer for anticipatory bail of the appellants and submits that the specific allegation against the appellants is that they have assaulted to the informant.

7. 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.

8. Considering the aforesaid facts, appellants have clean antecedent and in the background of land dispute the present occurrence had taken place, 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, Gaya in connection Chandauti P.S.Case No.212 of 2024, 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.

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

(Rajesh Kumar Verma, J)

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