

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3693 of 2022**

Arising Out of PS. Case No.-1093 Year-2019 Thana- FORBESGANJ District- Araria

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1. SHAMS TABREJ @ TINKU @ SHAMS TABREJ ALAM SON OF LATE NASHIR R/O VILLAGE- BHAGKOHALIYA, P.S.- FORBESGANJ, DISTRICT- ARARIA
 2. MD. MASUM ANSARI @ MASUM ANSARI SON OF LATE ISLAM ANSARI R/O VILLAGE- BHAGKOHALIYA, P.S.- FORBESGANJ, DISTRICT- ARARIA
 3. SHAMIM ANSARI @ SHAKIM ALAM @ MD. SAKIM ALAM SON OF LATE KASIM ANSARI R/O VILLAGE- BHAGKOHALIYA, P.S.- FORBESGANJ, DISTRICT- ARARIA

... .. Appellant/s

Versus

1. The State of Bihar
2. JANISAR KHATOON WIFE OF MD. DILSHAD KHAN R/O VILLAGE- BHAGKOHALIYA, P.S.- FORBESGANJ, DISTRICT- ARARIA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Jitendra Narain Sinha, Adv.
For the Respondent/s	:	Ms. Usha Kumari 1, Special PP
For the Informant	:	Mr. Alok Kumar Chaudhary, Adv. Mr. Kulanand Jha, Adv.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

5 24-09-2025 1. Heard learned counsel for the appellants, learned Spl. P.P. for the State, Ms. Usha Kumari No. 1 and the learned counsel appearing on behalf of the informant.

2. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 07.09.2022 in A.B.P. No. 2011 of 2022 passed by



the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Forbesganj P.S. Case No. 1093 of 2019 registered for the offences punishable under Sections 504 and 506 of the Indian Penal Code as well as Sections 3(i)(r)(s) of the SC/ST Act.

3. Learned counsel for the appellants submits that appellants are persons with clean antecedent and the informant alleges that her brother Saif performed inter-caste love marriage with one Shaista Shad, it is next alleged that since Shaista belonged to dominant caste, as such on 11.10.2019 at 11:00PM, the named accused persons including the appellants along with 100-150 unknown accused came to her house and started abusing him with caste name and threatened that if Shaista and her husband were not produced, they would destroy the entire settlement of the *Banjara* community and will set their house on fire and kidnap women and girls and will not spare any male members.

4. Learned counsel for the appellants submits that appellants have been falsely implicated in the instant case by the informant. It is next submitted that from perusal of the allegation as alleged in the FIR, it would manifest that the allegation of abuse is general and omnibus in nature. It is next



submitted that even presuming what has been alleged is true without admitting then the occurrence is alleged to have taken place at the house of the informant and thus was not in public view. It is also submitted that none of the family members of Shaista Shad have been implicated in the instant case by the informant, but then the appellants along with other villagers have been made accused. It is next submitted that informant belongs to Muslim community, as such, the appellants had sought information under the RTI Act from the District Welfare Officer, Araria with regard to the caste of the informant and the same was replied by Letter dated 16.12.2019 wherein it was recorded that Muslim community follow Islam and do not belong to SC/ST community.

5. The learned counsel for the appellants next submits that police, in a mechanical manner without appreciating the facts of the case in its correct perspective, submitted charge sheet, based on which cognizance has been taken, as such, the appellants apprehend their arrest.

6. Learned Spl. P.P. for the State and the learned counsel appearing on behalf of the respondent no. 2 opposes the appeal. Learned counsel appearing on behalf of the respondent no. 2 submits that whether informant belongs to SC/ST category



or not, cannot be decided in the instant proceedings. It is further submitted that the ground which has been raised by the learned counsel appearing on behalf of the appellants can be a ground to be tested in a quashing application. It is next submitted that the instant FIR has been instituted under the SC/ST Act and cognizance has been taken, which amply demonstrates that *prima facie* offence has been made out.

7. The learned counsel appearing on behalf of the appellants rebuts the said submission of the learned counsel appearing on behalf of the informant and submits that even presuming what has been alleged in the FIR to be true then also *prima facie* no offence under the SC/ST Act is made out, as the entire occurrence took place at the house of the informant and the learned Trial Court in a mechanical manner took cognizance. It is next submitted that no coercive action has been granted in favour of the appellants since 17.11.2022.

8. After hearing the learned counsel for the parties, **the appeal is disposed of** with a direction to the appellants to surrender before the learned Trial Court and seek regular bail.

9. In the event if the appellants surrender on or before 15.10.2025, in that event the learned Trial Court shall consider and dispose of the case on the same day keeping in



mind the fact that from perusal of the allegation as alleged in the
FIR, it would manifest that the allegation of abuse is general and
omnibus in nature and family members of Shaista Shad have not
been implicated as an accused in the instant case.

(Satyavrat Verma, J)

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