

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4458 of 2023

Arising Out of PS. Case No.-219 Year-2023 Thana- BARAULI District- Gopalganj

-
1. Suresh Sah Son of Bhola Sah R/o vill - Bakhraur Jaddi (Bakhraur Pachpatia), P.S. - Barauli, Distt. - Gopalganj
 2. Subash Sah Son of Bhola Sah R/o vill - Bakhraur Jaddi (Bakhraur Pachpatia), P.S. - Barauli, Distt. - Gopalganj
 3. Suraj Kumar Sah Son of Subash Sah R/o vill - Bakhraur Jaddi (Bakhraur Pachpatia), P.S. - Barauli, Distt. - Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Tetari Devi Wife of Ghural Manjhi R/o vill - Bakhraur Jaddi (Bakhraur Pachpatia), P.S. - Barauli, Distt. - Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lokesh Kumar Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-04-2025 Heard Mr. Lokesh Kumar Singh, learned counsel for the appellants and Mr. Binay Krishna, learned Special Public Prosecutor for the State as well learned counsel for respondent no. 2.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 31.07.2023 passed by the learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj, in ABP No. 1993 of 2023 in connection with Barauli P.S. Case No. 219 of 2023, F.I.R. dated 20.05.2023 registered under Sections 341,



323, 354, 325, 379 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, all these appellants over a land dispute, assaulted the respondent no. 2.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellants have not committed any offences as alleged in the F.I.R. He further submits that it appears from the F.I.R itself that due admitted land dispute the present occurrence took place and in view of the pronouncement of the Hon'ble Apex Court, he further refers to paragraph no.18 of the judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)** which is quoted hereinbelow:-

“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.”

No case is made out under the SC/ST Act. Apart from that there is specific allegation against the appellant no. 1 that he assaulted the informant and other family members although they received the injury but injury report of the injured persons suggests that the injury sustained to them is simple in nature caused by the hard and blunt substance

5. Learned counsel appearing on behalf of the Respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellants.

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

7. Hence, considering the aforesaid facts that the appellants have clean antecedent. Injury inflicted upon the injured persons is simple in nature and in view of the pronouncement of the Hon'ble Apex Court in judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)**, let the appellants, above named, in the event of their arrest to 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) with two surities of the like amount each to the satisfaction of learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj in connection with Barauli P.S. Case No. 219 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita, 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 tampers 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.

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

(Rajesh Kumar Verma, J.)

Jyoti Kumari/-

U		T	
---	--	---	--

