

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4435 of 2023

Arising Out of PS. Case No.-289 Year-2023 Thana- PAHARPUR District- East Champaran

1. SARYUG SAHANI son of Late Ramautar Sahani
 2. Arjun Sahani son of Late Ramautar Sahani
 3. Manohar Kumar son of Saryug Sahani
 4. Jitendra Sahani son of Jagdish Sahani
 5. Rajbanshi Sahani son of Ramdhayan Sahani
 6. Jagdish Sahani son of Mathura Sahani
 7. Munna Sahani son of Matha Sahani V
- All R/o village Balua Briti Tola Ps- Paharpur Dist- E.Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Babu Lal Ram son of Late Yugul Ram R/o Village- Balua Briti Tola Ps- Paharpur Dist- E.Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sangeet Deokuliar, Advocate
	:	Mr. Brajesh Sahay, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 15-04-2025 Heard Mr.Sangeet Deokuliar, 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 24.08.2023 in A.B.P. No.3856 of 2023 arising out of Paharpur P.S.Case No.289 of 2023/G.R.Case No.219 of



2023 dated 22.07.2023 passed by the learned Special Judge SC/ST Act, East Champaran at Motihari registered under Sections 341, 342, 323, 325, 354, 379, 504, 506, 427/34 of the Indian Penal Code as well as under Sections 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes Act.

3. Allegation against the appellants is that they assaulted and abused the female member of the informant by their caste names on account of their opposition to the accused sowing seeds in the field of the informant.

4. Learned counsel for the appellants submits that the appellants have clean antecedent and they have falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the appellants have not committed any offence as alleged in the FIR. From a bare perusal of the FIR it appears that due to land dispute the present occurrence had taken place and 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.

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 and apart from that, it appears from the FIR that the date of occurrence as alleged in the FIR is 20.07.2023 but the present FIR has been instituted on 22.07.2023 after delay of about two days without giving any explanation of delay and there is no specific allegation of any assault or overt-act attributed against the appellants and no injury was found on the person of the injured which suggests that the informant has received any injury in the present occurrence.

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.

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 and appellants have clean antecedent, 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 Special Judge SC/ST Act, East Champaran at Motihari in connection Paharpur P.S.Case No.289 of 2023/G.R.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 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)

Nitesh/-

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