

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4517 of 2023

Arising Out of PS. Case No.-44 Year-2023 Thana- SC/ST District- East Champaran

MD. FAIZ AZAM @ MD. FAIZ AZAM KHAN SON OF LATE MD. NEZAMUDDIN KHAN VILLAGE- BANIYA PATTI NEAR PAKARI TREE, PS- MOTIHARI (TOWN), DIST- EAST CHAMPARAN

... .. Appellant/s

Versus

1. The State of Bihar
2. KAMLESH KUMAR PASWAN SON OF MAHAVIR PASWAN VILLAGE- NANDPUR, PS- MOTIHARI MUFFASIL, DIST- EAST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shakil Ahmad Khan, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 15-04-2025 Heard Mr. Shakil Ahmad Khan, learned counsel for the appellant, learned counsel for the Respondent No.2 as well as Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 02.09.2023 passed by the learned Special Judge SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 3996 of 2023 arising out of Motihari SC & ST P.S. Case No. 44 of 2023, F.I.R. dated 14.07.2023 registered under Sections 406, 420, 504 of the Indian Penal Code and 138 N.I. Act and Sections 3(1)(r) (s) of the Scheduled Castes and Scheduled Tribes (PoA) Act.



3. According to the prosecution case, on 02.02.2023, the appellant went to the house of the complainant regarding sell of a land to which the complainant gave him Rs. 5,90,000 and told that rest amount was to be paid at the time of registry. On 10.03.2023, when the complainant went to the house of the appellant to enquire about the same land, appellant abused him by his caste name.

4. Learned counsel for the appellants submits that appellant is innocent and he has falsely been implicated in the present case. Initially the Respondent No.2 has filed a complaint petition and thereafter the same was registered under 156(2) of the Cr.P.C and thereafter the present FIR/complaint petition instituted in compliance of the order of the learned Court below. He further submits that from bare perusal of the FIR/complaint petition it appears that the occurrence took place due to admitted land dispute and in view of the judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)** no case is made out under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the appellant.

5. Learned Special Public Prosecutor for the State and learned counsel for the Respondent No.2 vehemently opposed the prayer for bail of the appellant and submits that the appellant



has received the aforesaid amount from the complainant and apart from that the appellant carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph-3 of the application that he is on bail in the pending matter.

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, let the appellant, above named, in the event of his 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 sureties of the like amount each to the satisfaction of learned Special Judge SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 3996 of 2023 arising out of Motihari SC & ST P.S. Case No. 44 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. Appellant 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the appellant 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 appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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)

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