

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4584 of 2023

Arising Out of PS. Case No.-260 Year-2023 Thana- BANMANKHI District- Purnia

1. Suman Kumar Choudhary @ Suman Choudhary S/O Tej Narayan Choudhary R/O Village- Lohapatti, Ward No. 9, Banmankhi, P.S- Banmankhi, Distt.- Purnea.
2. Rita Choudhary W/O Arun Kumar Choudhary R/O Mohalla- Raj Hat, Ward No. 17, P.S- Banmankhi, Distt.- Purnea.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Kishan Kumar Uron S/O Late Shivanand Uron R/O Mohalla- Hridaya Nagar, Ward No. 1, P.S- Banmankhi, Distt.- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Radha Mohan Singh, Appellants
For the Resp. No. 2	:	Mr. Sarveshwar Tiwary, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 15-04-2025 Heard Mr. Radha Mohan Singh, learned counsel for the appellants, Mr. Sarveshwar Tiwary, learned counsel for the Respondent No. 2/Informant as well as Mr. Binay Krishna, learned Special Public Prosecutor 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 28.08.2023 in A.B.P. No. 88 of 2023 passed by the learned Special Judge, SC/ST Act, Purnea in connection with Banmankhi P.S. Case No. 260 of 2023 registered under



Sections 341, 323, 504, 506, 467, 468, 471 and 34 of the Indian Penal Code and Sections 3(1) (r)(s), 3(2)(va) of the SC & ST (Prevention of Atrocities) Act.

3. Allegation against the appellants is that he along with other co-accused persons have assaulted the informant and abusing his caste name.

4. Learned counsel for the appellants submits that the appellants are innocent and they have been falsely implicated in the present case. He further submits that it appears from the F.I.R. itself that due to admitted land dispute the present occurrence had taken place and the informant has alleged that the appellants have used the abusing language against the informant but the place of occurrence as alleged in the F.I.R. is in the house of the informant, so the appellants have not abused in the public place and hence no case is made out under SC/ST Act against the appellants 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.

6. Learned counsel for the Informant as well as learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellants and submits that the appellant no. 1 carries two more cases other than other than the present one and appellant no. 2 carries one more case other than the present one but fairly submits on the basis of paragraph-3 of the bail petition that the appellant no. 1 is on bail in one case.

7. Considering the aforesaid facts and circumstances



of the case, 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, Purnea in connection with Banmankhi P.S. Case No. 260 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 along with other following conditions :-

(1) 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 bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 dated 28.08.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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