

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4700 of 2023

Arising Out of PS. Case No.-297 Year-2023 Thana- PARAIYA District- Gaya

1. Sanjay Yadav @ Sanjay Kumar Son Of Late Manki Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
2. Ramniwash Yadav Son Of Late Manki Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
3. Santosh Kumar @ Santosh Yadav Son Of Late Manki Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
4. Dharmendra Kumar @ Dharmendra Yadav Son Of Late Manki Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
5. Munna Yadav @ Prabhat Ranjan Son Of Late Manki Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
6. Upendra @ Satendra Yadav @ Satendra Kumar Son Of Mithu Yadav Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya
7. Poonam Kumari Wife Of Upendra @Satyendra Kumar Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Pramila Kumari Wife Of Shivnandan Manjhi Resident Of Village- Gajanpur, Ps- Paraiya, Distt- Gaya

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 29-04-2025 Heard Mr. Sudhir Kumar Sinha, learned counsel for the appellants and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

2. Learned Spl.P.P. has informed this Court the he informed the respondent no. 2 through the Senior Superintendent of Police, Gaya but despite of that no one



appeared on behalf of the respondent no. 2.

3. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 12.09.2023 passed by the learned Exclusive Special Judge SC/ST, Gaya, in ABP No. 293 of 2023 in connection with Paraiya P.S. Case No. 297 of 2023, F.I.R. dated 07.08.2023 registered under Sections 323, 341, 448, 354, 504, 506 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) (w)/2 (va) of the Scheduled Castes and Scheduled Tribes (POA) Act.

4. According to the prosecution case, all these appellants over a land dispute, assaulted the respondent no. 2 and his family members and also assaulted them.

5. 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 to admitted land dispute the present occurrence took place and in view of the judgment of the Hon'ble Apex Court 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.”

So, in the background of the land dispute, no case is made out under the SC/ST Act.

6. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the F.I.R and with the common intention, they have assaulted the respondent no. 2 and his family members.

7. 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.

8. Hence, considering the aforesaid facts, the appellants have clean antecedent, there is no specific allegation



against them in the F.I.R. and apart from that in view of the Hon'ble Apex Court judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)** no case is made out under the SC/ST Act, 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 Exclusive Special Judge SC/ST, Gaya, in connection with Paraiya P.S. Case No. 297 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.

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

(Rajesh Kumar Verma, J)

Jyoti Kumari/-

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