

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4631 of 2023

Arising Out of PS. Case No.-138 Year-2023 Thana- PALASI District- Araria

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1. Jamratun @ Jimaraton W/O Sheikh Jaleshwar @ She Jaleshwar Village- Pipra Bijwar, Ps. Palasi, Dist. Araria
 2. Mustak @ Mustafa S/O Sheikh Jaleshwar @ She. Jaleshwar Village- Pipra Bijwar, Ps. Palasi, Dist. Araria
 3. Ajmeri D/O Sheikh Jaleshwar @ She. Jaleshwar Village- Pipra Bijwar, Ps. Palasi, Dist. Araria
 4. Kashmeri W/O Md. Naushad Village- Pipra Bijwar, Ps. Palasi, Dist. Araria
 5. Kurseda D/O Kamatiya Village- Pipra Bijwar, Ps. Palasi, Dist. Araria
 6. Samrun @ Bibi Samen @ Samerun W/O Late Uchhur Village- Pipra Bijwar, Ps. Palasi, Dist. Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Somni Devi W/O Shyam Lal Manjhi Village- Pipra Bijwar, Ps. Palasi, Dist. Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Madhav Jha, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 15-04-2025 Heard Ms. Madhav Jha, learned counsel for the appellants as well as Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. Despite of entered appearance through Vakalatnama on behalf of the Respondent No. 2/Informant, no one appears on behalf of the Respondent No. 2/Informant.

3. 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 09.08.2023 in A.B.A. No. 1890 of 2023 passed by the learned Additional Sessions Judge 1st-cum-Special Judge, Araria in connection with Palasi P.S. Case No. 138 of 2023 registered under Sections 341, 323, 324, 354(B), 379, 504, 34 of the Indian Penal Code and Sections 3(1) (r)(s) of SC/ST (POA) Act.

4. Allegation against the appellants is that they along with other co-accused persons started digging out soil from the land of the informant and when the informant objected they came with iron rod and started assaulting and abusing the Informant with her caste name. It is further alleged that they also snatched the jewellery from the informant.

5. Learned counsel for the appellants submits that the appellants have clean antecedents 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 although the appellants are named in the F.I.R. but there is no specific allegation against them rather there is general and omnibus allegation against all the accused persons including these appellants and the present case is counter blast of Palasi P.S.



Case No. 137 of 2023 filed by the appellants' side against the informant and their family members. He further submits that as per allegation in the F.I.R., Mustaque bite on the hand of one Shyam Lal Manjhi but the injury inflicted upon Shyam Lal Manjhi is simple in nature 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.

6. 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.

7. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for anticipatory bail of the appellants.

8. Hence, 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 Additional Sessions Judge 1st-cum-Special Judge, Araria in connection with Palasi P.S. Case No. 138 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 antecedents, 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 dated 09.08.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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