

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4802 of 2023**

Arising Out of PS. Case No.-14 Year-2022 Thana- SC/ST District- Katihar

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1. MD. NAJIM @ NAJIM Son of Ghupuchu @ Hupuchh @ Hafuj RESIDENT OF VILLAGE - MIRJADPUR, P.S - ABADPUR, DISTT. - KATI HAR
 2. Rina Khatoon Wife of Md. Mansoor @ Mansoor R/o vill - Kajitola, P.S. - Abadpur, Distt. - Kaithar
 3. Mansoor @ Md. Mansoor @ Mansoor Alam Son of Late Farid R/o vill - Kajitola, P.S. - Abadpur, Distt. - Kaithar

... .. Appellant/s

Versus

1. The State of Bihar
2. Ratan Kumar Rai Son of Dijendra Nath Rai R/o vill - Basantpur, P.S. - Abadpur, Distt. - Katihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Helal Ahmad, Advocate
	:	Mr. Madiha Hashmi, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 22-04-2025 Heard Mr. Md. Helal Ahmad, learned counsel for the appellants as well as Mr. Binay Krishna, learned Special Public Prosecutor for the State.

2. Despite valid service of notice upon Respondent no.2, no one appears on behalf of Respondent no.2.

3. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 05.09.2023 passed by the learned Additional District Judge 1st-cum-Special Judge, SC/ST Act, Katihar in connection SC/ST P.S. Case No. 14 of 2022, dated 12.04.2022 registered under



Sections 341, 323, 384, 504/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (PoA) Act.

4. According to the prosecution case, the informant alleged that on 26.03.2022, the appellants along with other co-accused persons started digging the land of the informant. On protest they assaulted the informant and his mother and also demanded Rs. 3,00,000/- as ransom.

5. Learned counsel for the appellants submits that appellants are innocent and they have falsely been implicated in the present case. There is inordinate delay in lodging the present First Information Report inasmuch as the occurrence has taken place on 26.03.2022 and the First Information Report has been lodged on 12.04.2022 i.e. after 16 days. He further submits that due to admitted land dispute, appellants have been implicated in this case. There is no specific allegation rather there is general and omnibus allegation against all the accused persons including these appellants. He further 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.

6. Learned Special Public Prosecutor for the State and submits that appellant nos. 1 & 2 have clean antecedent and appellant no.3 has one criminal antecedent but fairly submits on the basis of paragraph-3 of the bail application that appellant no.3 is on bail in the pending matter.

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. Considering the aforesaid facts and circumstances, there is admitted land dispute and there is no specific allegation against the appellants and in view of the aforesaid judgment, 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 sureties of the like amount each to the satisfaction of learned Additional District Judge 1st-cum-Special Judge, SC/ST Act, Katihar in connection SC/ST P.S. Case No. 14 of 2022, 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 bonds 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 antecedents 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 bonds 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)

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