

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4655 of 2023

Arising Out of PS. Case No.-28 Year-2023 Thana- SC/ST District- Sitamarhi

SUDHAKAR JHA @ MANOHAR JHA SON OF LATE BHOLA JHA R/O
MOHALLA- VISHWANATHPUR, P.S.- DUMRA, DISTRICT- SITAMARHI

... .. Appellant/s

Versus

1. The State of Bihar
2. SUNITA DEVI WIFE OF JAGARNATH MAHTO @ CHOUDHARY R/O
VILLAGE- PARASPATI KHAJURIYA WARD NO. 1, POST AND P.S.-
DUMRA, DISTRICT- SITAMARHI

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sunil Prasad Singh, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For Respondent No.2	:	Mr. Santosh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 22-04-2025 Heard Mr. Sunil Prasad Singh, learned counsel for the appellant, Mr. Santosh Kumar, learned counsel for Respondent No.2 and Mr. Sadanand Paswan, learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 15.09.2023 passed by the learned Additional Sessions Judge-cum-Special Judge, SC/ST(PoA) Act, Sitamarhi passed in connection with Sitamarhi P.S. Case No. 28 of 2023 , F.I.R. dated 08.06.2023 registered under Sections 341, 323, 354A, 452, 379, 504, 506/34 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes



Act.

3. According to the prosecution case, informant alleged that one Meghu Jha constructed wall of his house inside the land of the informant and on 31.05.2023, appellant along with other accused persons entered her house assaulted.

4. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case due to admitted land dispute between the parties. Although there is specific allegation of assault against the appellant in the FIR but the allegation levelled against the appellant is false and fabricated and appellant has not committed the offence as alleged in the FIR and the informant did not receive any injury. 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.”

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

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. Considering the aforesaid facts and circumstances, there is previous land dispute between the parties and in view of the aforesaid judgment, 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 Additional Sessions Judge-cum-Special Judge, SC/ST(PoA) Act, Sitamarhi passed in connection with Sitamarhi P.S. Case No. 28 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.

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

(Rajesh Kumar Verma, J)

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