

Arising Out of PS. Case No.-287 Year-2024 Thana- UDWANTNAGAR District- Bhojpur

- Appellant/s

1. The State of Bihar
2. Nitesh Kumar Son of Late Sita Ram Rajak R/O Keshopur Bakri, P.S. Udwanatnagar, District- Bhojpur

... .. Respondent/s

For the Appellant/s : Mr. Manoj Kumar, Adv.
For the Respondent/s : Mr. Sadanand Paswan, APP

3 12-11-2025 Heard Mr. Manoj Kumar, learned counsel for the
appellants, Mr. Parmatma Singh for respondent no. 2 beside
learned State Counsel.

2. This appeal has been filed

for setting aside the order dt. 12.09.2024 passed by Learned Additional Sessions Judge 1st cum/Special Judge SC/ST Act, Bhojpur at Ara vide A.B.P no-2417/2024 in connection with Udwant Nagar P.S. Case. No.-287/2024 dt 04.07.2024, U/S-191(2),191(3)190,126(2),115(2),109(1), 103(2) Of Bhartiya Nyaya Sanhita (BNS), read with Section 3(i)(r)(s)/3(2)(v) of SC/ST



Act (Prevention of atrocities Act 1989) & U/S 27 of Arms Act whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution story, the informant alleged that while sitting at the Harijan Community Building along with brothers including Virantan Ram, Vikash Kumar and cousins beside the villagers, allegation is that the accused persons including the two appellants came and resorted to assault. Further allegation is that Gopal Choudhari gave pistol butt blow on the head of Vikash Kumar while Harendra Choudhary, Gopal Choudhari, Shankar Choudhary, Vijay Choudhary, Shiv Bachan Choudhary resorted to indiscriminate firing causing injury to his brother, Virantan Ram which resulted into the death of Virantan Ram. They also took caste name and later retreated. The reason has been recorded as the institution of earlier case no. 398 of 2022 in which amongst other, appellant no. 2 is an accused. This led to the FIR.

4. Learned counsel for the appellant submits that a bare perusal of the FIR would show that specific allegation has been made against Gopal Choudhari, Harendra Choudhary, Gopal Choudhari, Shankar Choudhary, Vijay Choudhary and Shiv Bachan Choudhary. Further, only the family members were



present and no vague word has been used. There is nothing on record to show that the said utterance were made in presence of public. Only to implicate each and every family member/agnates, the present extended list of accused has been made. He has taken this Court to the Cr. Appeal (SJ) No. 1134 of 2025 (Chandan Choudhary @Chandan Kumar Choudhary vs. State and Anr.) (disposed of on 10.07.2025) to submit that similar situate person has been extended relief.

5. Learned counsel representing the respondent no. 2 has opposed the prayer submitting that it was uttered at Harijan Community Center, unlike the case of Chandan Choudhary, the appellant no. 2 has criminal antecedent and all of them resorted to assault.

6. This has been countered by learned counsel for the appellant submitting that there is no name of any villager in the FIR and so far as the criminal antecedent of appellant no. 2 is concerned, the same has been lodged by the same party and which is in the FIR itself. Other than that, there is no antecedent so far as the appellant no. 2 is concerned.

7. Taking into account the aforesaid facts as also that omnibus allegation is against these two appellants and specific allegation is against the accused as named above, one of the



appellant no. 1 has no criminal antecedent, similar situation Chandan Choudhary has been extended relief, in that background, this Court is inclined to extend them the privilege of bail with conditions.

8. The impugned order dated dt. 12.09.2024 passed by Learned Additional Sessions Judge 1st cum/Special Judge SC/ST Act, Bhojpur at Ara vide A.B.P no-2417/2024 in connection with Udwant Nagar P.S. Case. No.-287/2024 stands set aside and the appeal is allowed.

9. Let the appellants, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st cum Special Judge SC/ST Act, Bhojpur at Ara in connection with Udwant Nagar P.S. Case No. 287 of 2024 with the following conditions:

(i) one of the bailor should be the family members/relatives of the appellants, who shall provide official document to show his *bona fide*;

(ii) the appellants shall appear on each and every date before the Trial court and failure to do so for two consecutive



dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the appellants shall appear before the concerned police station every month for next six months to mark attendance and at the end of the period, the certificate be submitted to the Court;

(iv) the appellants shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the appellants shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Vijay Singh/-

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