

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4832 of 2023

Arising Out of PS. Case No.-319 Year-2024 Thana- MIRGANJ District- Gopalganj

1. Hridya Shah @ Hridya Sah S/O Late Jaipal Shah Village Kheman Tola, P.S Mirganj, District Gopalganj
2. Vidya Shah @ Vidya Sah S/O Dirpal Teli Village Kheman Tola, P.S Mirganj, District Gopalganj
3. Anup Shah @ Anup Kumar Sah @ Anup Sah S/O Hridya Shah Village Kheman Tola, P.S Mirganj, District Gopalganj
4. Rahul Shah @ Rahul Kumar Sah S/O Bhola Shah Village Kheman Tola, P.S Mirganj, District Gopalganj
5. Sita Devi W/O Bhola Sah Village Kheman Tola, P.S Mirganj, District Gopalganj
6. Ghurali Devi W/O Hridaya Shah Village Kheman Tola, P.S Mirganj, District Gopalganj
7. Tetari Devi W/O Vidya Shah @ Vidha Sah Village Kheman Tola, P.S Mirganj, District Gopalganj

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Javed Aslam, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-06-2025 Heard Mr. Javed Aslam, learned counsel for the appellants, Mrs. Usha Kumari 1, learned Special Public Prosecutor for the State.

2. Despite of entered appearance through the Vakalatnama, no one appeared on behalf of the informant (respondent no. 2).

3. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated



08.09.2023 passed by the learned Court of Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj, Bihar in ABP No. 2376 of 2023 in connection with Mirganj P.S. Case No. 319 of 2023 F.I.R. dated 18.08.2023 registered under Sections 341, 323, 324, 307, 354B, 504, 506, 34 of the Indian Penal Code and Sections 3 (i) (r) (s) (w) of the Scheduled Castes and Scheduled Tribes (POA) Act.

4. According to the prosecution case, the appellants along with co-accused persons have assaulted the informant and his family members with rod, iron pipe, *khanti* etc. and it is further alleged that they also abused the informant and his family by calling their caste name and threatened them to do away their lives.

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 has taken place. 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.”

So, no offence is made out against the appellant. Although, there is specific allegation against appellant nos. 1, 2 and 3 that they have assaulted the informant and his family members but injury report of injured persons suggest that injuries are simple in nature caused by hard and blunt substance.

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 they have assaulted the informant 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. Considering the facts and circumstance that appellants have clean antecedent, due to admitted land dispute,



present occurrence took place and in view of the judgment (supra), no case is made out against SC/ST Act and injury report of the injured persons suggest that injuries are simple in nature, 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) each with two surities of the like amount each to the satisfaction of learned Additional Sessions Judge-XI-cum-Exclusive Special Judge, SC/ST, Gopalganj, Bihar in connection with Mirganj P.S. Case No. 319 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)

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