

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5042 of 2023

Arising Out of PS. Case No.-10 Year-2022 Thana- SC/ST District- Madhepura

1. Dilchand Kumar Yadav @ Dilchand Yadav S/O Sadanand Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
2. Raushan Kumar Son of Sanjay Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
3. Kartik Kumar Son of Sanjay Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
4. Nitish Kumar @ Niteesh Kumar Son of Dhirendra Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
5. Dhirendra Yadav @ Dheerendra Yadab Son of Dayanand Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
6. Sanjay Yadav Son of Dayandand Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
7. Fulchan Yadav @ Fulchand Yadav Son of Sadanand Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
8. Ritichand Yadav Son of Sadanand Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura
9. Mithu Yadav @ Miththu Kumar Son of Krishna Mohan Yadav R/o vill - Jirwa, ward no. 2, P.S. - Shankarpur, Distt. - Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Madan Sharma Son of Late Singheshwar Sharma R/o vill - Jirwa, P.S. - Shankarpur, Distt. - Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amarnath Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-04-2025 Heard Mr. Amarnath Jha, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. Learned Spl.P.P. has informed this Court the he



informed the respondent no. 2 through the Superintendent of Police, Madhepura on 24.04.2025 but despite of that no one appeared on behalf of the respondent no. 2.

3. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 25.09.2023 passed by the learned Additional District and Sessions Judge-1st-cum-Special Judge Scheduled Castes and Scheduled Tribes, (POA) Act, Madhepura in ABP No. 1364 of 2023 in connection with Madhepura SC/ST P.S. Case No. 10 of 2022/SC/ST Case No. 42 of 2022 F.I.R. dated 05.06.2022 registered under Sections 341, 323, 354(A), 379, 504, 506 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) (w) 3 (2) (v-a) of the Scheduled Castes and Scheduled Tribes (POA) Act.

4. According to the prosecution case, all these appellants over a petty dispute, assaulted the respondent no. 2 and his family members and also abused them by taking their caste name.

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. From the perusal of the F.I.R., it appears that due to admitted land dispute, the present occurrence has been taken place. He further submits 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.”

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.

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

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. Hence, considering the aforesaid facts, the appellants have clean antecedent, there is no such allegation against the appellants and apart from that in the background of land dispute and the judgment as aforesaid (supra), no case is made out under SC/ST Act against the appellants, 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 surities of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1st-cum-Special Judge Scheduled Castes and Scheduled Tribes, (POA) Act, Madhepura in connection with Madhepura SC/ST P.S. Case No. 10 of 2022/SC/ST Case No. 42 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 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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