

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5075 of 2023

Arising Out of PS. Case No.-221 Year-2023 Thana- KANKARBAG District- Patna

SHIVAM KUMAR @ SHIVDHARI KUMAR SON OF DEVAN MAHTO
RESIDENT OF VILLAGE- HETAMPUR MIRJAPUR, PS- BALIA, DISTT-
BEGUSARAI

... .. Appellant/s

Versus

1. The State of Bihar
2. Raghunandan Rajak Late Agnu Rajak R/V- R.M.S. Colony, Road No. 03,
Lohiya Nagar, P.S.-Kankarbagh, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Sandesh Roy, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 24-06-2025 Heard Mr. Ram Sandesh Roy, learned counsel for

the appellant as well as Mrs. Usha Kumari 1, learned Spl.P.P. for

the State.

2. Despite valid service of notice upon Respondent
No.2, no one appeared 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
31.08.2023 passed in A.B.P. No. 6540 of 2023 by the learned
Court of Exclusive special Judge,SC/ST, Patna in connection
with Kankarbagh P.S. Case No. 221 of 2023, F.I.R. dated
01.03.2023 registered under Sections 323, 379, 504,34 of the
Indian Penal Code and Sections 3(i) (r) (s) of the Scheduled



Castes and Scheduled Tribes Act.

4. According to the prosecution case, the appellant along with other accused persons came to informant's house for doing some work. After completing the work in one house, when they got ready to go alongwith their machine, the informant said that after completion of work they can take away the machine, on this they assaulted the informant by *patara* and fled away by abusing by caste name.

5. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that informant is a police personnel and the appellant demanded dues amount from him after completion of the work and the informant has filed the present case after the institution of Complaint Case No-3312(c)/2023 which is lodged by the appellant against the informant and apart from that there is also allegation that the appellant has fled away from the place of occurrence after abusing the informant in caste name but the alleged occurrence took place in the house of the informant which is not a public place, so no case is made out under SC/ST Act.

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



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, 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 surities of the like amount each to the satisfaction of learned Court of Exclusive Special Judge, SC/ST, Patna in connection with Kankarbagh P.S. Case No. 221 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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