

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5048 of 2023

Arising Out of PS. Case No.-368 Year-2014 Thana- FATUA District- Patna

-
1. Ganauri Singh @ Ganauri Yadav Son Of Dev Sharan Singh Resident Of Village - Raipura, Kevelatar, P.S. - Fatwah, District - Patna
 2. Uday Kumar @ Uday Yadav Son Of Dev Sharan Singh Resident Of Village - Raipura, Kevelatar, P.S. - Fatwah, District - Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanichari Devi Wife Of Deena Paswan Resident Of Village - Raipur Kevelatar, P.S. - Fatwah, District - Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Atul Shankar, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.
For the Resp. No. 2	:	Mr. Vishwa Ranjan Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-04-2025 Heard Mr. Atul Shankar, learned counsel for the appellants, Mr. Vishwa Ranjan Choudhary, learned counsel for the Respondent No. 2/Informant as well as Mr. Binay Krishna, learned Special Public Prosecutor for the State.

2. This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 01.09.2023 and 20.09.2023 in A.B.P. No. 7200 of 2023 passed by the learned Exclusive Special Judge, SC/ST Act, Patna in connection with Fatuha P.S. Case No. 368 of 2014 registered under Sections 147, 148, 149, 341, 323, 504, 384 and



506 of the Indian Penal Code and Sections 3(1) (x) of the SC/ST (Prevention of Atrocities) Act, 1989.

3. Allegation against the appellants is that they along with other co-accused persons having lathi, danda have assaulted the informant and abusing by taking his caste name.

4. Learned counsel for the appellants have clean antecedents and they have been falsely implicated in the present case. He further submits that it appears from the F.I.R. itself that due to admitted land dispute the present occurrence had taken place and a Title Suit No. 469 of 2013 is going on between the parties 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.

5. 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 and apart from that from perusal of the F.I.R. it appears that there is specific allegation of assault or overt act or abusing language is against co-accused persons namely Manish Yadav and Kamlesh Yadav and there is no specific allegation of any assault or overt or abusing language attributed against these appellants.

6. Learned counsel for the Respondent No. 2 as well as learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellants.

7. Considering the aforesaid facts and circumstances of the case, let the appellants, above named, in the event of their arrest or 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 sureties of the like amount each to the satisfaction of learned Exclusive Special Judge SC/ST Act, Patna in connection with Fatuha P.S. Case No. 368 of 2014, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 along with other following conditions :-

(1) 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 bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 antecedents, 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.

8. Accordingly, the impugned orders dated 01.09.2023 and 20.09.2023 are set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

Ibrar//-

U		T	
---	--	---	--

