

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5097 of 2023

Arising Out of PS. Case No.-103 Year-2023 Thana- PHULPARAS District- Madhubani

1. Shambhu Sah Son Of Dilip Sah Resident Of Village - Belha, P.S. - Phulparas, District - Madhubani
2. Subhash Mandal Son Of Ram Kumar Resident Of Village - Belha, P.S. - Phulparas, District - Madhubani
3. Dilip Sah Son Of Khushilal Sah Resident Of Village - Belha, P.S. - Phulparas, District - Madhubani

... .. Appellant/s

Versus

1. The State Of Bihar
2. Bal Ram Mandal Son Of Late Narayan Mandal Resident Of Village - Belha, P.S. - Phulparas, District - Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Gagan Deo Yadav Mr. Vinod Kumar, Advocates
For the Resp. no. 2	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 22-04-2025 Heard Mr. Gagan Deo Yadav, learned counsel for the appellants as well as Mrs. Usha Kumari, learned Special Public Prosecutor for the State.

2. Despite of valid service of notice upon Respondent No. 2/Informant, no one appears on behalf of Respondent No. 2.

3. 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 30.09.2023 in A.B.P. No. 2141 of 2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge,



Madhubani in connection with Phulparas P.S. Case No. 103 of 2023 F.I.R. dated 23.02.2023 registered under Sections 341, 323, 308, 379, 504, 34 of the Indian Penal Code and Sections 3(i) (v) (s) of SC/ST Act.

4. Allegation against the appellants is that he along with other co-accused persons have assaulted the informant and his with iron rod due to which they sustained injuries and also abused them by saying their caste names.

5. Learned counsel for the appellants submits that the appellant nos. 1 and 3 having clean antecedents and appellant no. 2 carries one more case other than the present one and they have been falsely 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 offence as alleged in the F.I.R. He further submits that it appears from the F.I.R. that there is no specific allegation of any assault or overt act or abusing against these appellants rather there is general and omnibus allegation against all the accused persons including these appellants and apart from that one Meera Devi who happens to be the wife of co-accused Dilip Sah has also filed a case against the informant and others bearing Phulparas P.S. Case No. 104 of 2023 and it also transpires from the F.I.R. itself that no case is made out under the SC/St Act against the appellants.

6. Learned Special Public Prosecutor for the State has



vehemently opposed the prayer for anticipatory bail of the appellants and submits that appellants nos. 1 and 3 having clean antecedent and appellant no. 2 carries one more case other than the present one.

7. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Casts and Scheduled Tribes Act is made out.

8. Considering the aforesaid facts and circumstances of the case and the fact that there is no specific allegation of any assault or overt act or abusing against these appellants, 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 1st Additional Sessions Judge-cum-Special Judge, Madhubani in connection with Phulparas P.S. Case No. 103 of 2023, 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.

9. Accordingly, the impugned order dated 30.09.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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