

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5078 of 2024

Arising Out of PS. Case No.-23 Year-2023 Thana- PURNIA COMPLAINT CASE District-
Purnia

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1. Shyam Kumar Chaudhari @ Shyam Choudhary Son of Late Surya Narayan Choudhary Village- Bhawanipur, P.S.- Bhawanipur Dist.- Purnea.
 2. Aditya Kumar @ Saket Mishra Son of Late Parash Nath Mishra Village- Bhawanipur, P.S.- Bhawanipur Dist.- Purnea.
 3. Awadhesh Bhagat Son of Upendra Bhagat Village- Shahidganj, P.S.- Bhawanipur Dist.- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nitu Devi Wife of Bishun Mehtar Village- Bhawanipur, P.S.- Bhawanipur Dist.- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Mishra
For the State	:	Mr. Sadanand Paswan
For the Respondent No.2:		Mr. Raj Kumar
		Mr. Rajnish Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 18-03-2025 1. Heard learned counsel for the appellants and learned Additional Public Prosecutor for the State as well as learned counsel for the respondent no. 2.
2. An order, dated 04.10.2024, passed by learned Special Judge SC/ST Act, Purnea, in ABP No. 96 of 2024 is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Special SC/ST Case No. 23 of 2023



registered for the offence punishable under Sections 341/323/354/447/34 of the Indian Penal Code and Section 3(i)(g)(s) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, has been rejected.

3. The prosecution case, as per the complaint, is that the grandfather of the complainant, namely, Late Jamun Mehta, had got a land situated at Mauza Bhawanipur, Thana No. 185/2, Khata No. 694, Khesra No. 5023, having total area of 25 decimal from Revenue Department, Purnea, and obtained Bandobasti Parwana, bearing Case No. 16/1988-89 and also the rent receipt till 2022-23. Since then he has been cultivating the land with her family members. It has further been alleged that on 19.01.2023, in the night, all the accused persons, including the appellants, having arms and ammunition, arrived at the house of the informant and abused her by caste name and also started assaulting him. It has also been alleged that they tried to outrage the modesty of the informant after pulling her saree.
4. Learned counsel for the appellants argued that the occurrence has allegedly taken place on 19.01.2023, but the complaint has been filed after a delay of 25 days on



14.02.2023. He further submits that there is admitted land dispute between the parties, which would be evident from the statement made in the complaint itself and the land, in question, mentioned in the complaint petition belongs to the appellant no. 2, which is being claimed by the complainant as her own. The complaint case, bearing 1359 of 2022, was lodged by the appellant no. 3 against the complainant and her family members, in which, cognizance has been taken by learned Magistrate vide order, dated 24.11.2022, against the complainant and others and the present complaint has been lodged as a counter-blast and in abuse of process of law in land dispute. He next submits that the land, in question, which the complainant has mentioned in the complaint petition was purchased land of the father of appellant no. 2, namely, Late Parash Nath Mishra from Sunil Kumar Singh/Brinder Singh on 04.09.1970, which was subsequently declared surplus land by the Circle Officer, Bhawanipur, Purnea, in Ceiling Case No. 2075/2073-74 for which the father of the appellant no. 2 fought legal battle up to this High Court in CWJC No. 7534 of 1988. Ultimately, the land, in question, came into possession of



the appellant no. 2, who sold the land to Laxmi Sharma and others. The allegation of abuse in the caste name was not made in full public view.

5. On the other hand, learned counsel for the respondent no. 2, relying upon the judgment of the Supreme Court, in the case of **Bachu Das v. The State of Bihar and Others**, reported in **(2014) 3 SCC 471**, submits that learned Magistrate has taken cognizance of the offence against the appellants, as such, there is a prima facie case against the appellants and this appeal for anticipatory bail is not maintainable.
6. I have heard learned counsel for the parties, including learned Special Public Prosecutor for the SC/ST (POA) Act.
7. From perusal of the complaint, it appears that there is admitted land dispute between the parties and allegations of indignation, humiliation and harassment of the complainant by the appellants and other accused persons are not due to the fact that the complainant and her family members belong to the vulnerable section of the society. Prima facie it appears that there is land dispute and both the parties are claiming their title over the land



and appellants’ side have fought legal battle up to this High Court, accordingly, considering the facts and circumstances in totality, I am inclined to grant the appellants privilege of anticipatory bail.

8. This appeal is, accordingly, allowed and the order, dated 04.10.2024, passed by learned Special Judge, SC/ST Act, Purnea, in ABP No. 96 of 2024, is set aside.
9. Let the appellants, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on 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 Special Judge, SC/ST Act, Purnea, in connection with Special (SC/ST) Case No. 23 of 2023, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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