

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5193 of 2023**

Arising Out of PS. Case No.-376 Year-2023 Thana- SULTANGANJ District- Bhagalpur

Gulten @ Gautam Mishra S/O Dinesh Mishra Village- Kalyanpur, Ps.
Bariyarpur, Dist. Munger.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rakesh Tanti S/O Late Madan Tanti R/O Village And Po- Kalyanpur, Ps.
Sultanganj, Dist. Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 06-05-2025 Heard Mr. Siyaram Pandey, learned counsel for the

appellant and Mr. Sadanand Paswan, learned Special Public

Prosecutor for the State.

2. Despite of interappearance through Vakalatnama,
no one appears on behalf of the O.P. No. 2.

3. This is an appeal under Sections 14(A)(2) against
refusal of the prayer for anticipatory bail by order dated
23.09.2023 passed by the learned Court of Additional Sessions
Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur in ABP
No. 2255 of 2023 in connection with Sultanganj P.S. Case No.
376 of 2023, F.I.R. dated 19.07.2023 registered under Sections
341, 323, 504, 506 and 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 over a petty dispute, assaulted the respondent no. 2 and also abused him by taking his caste name.

5. Learned counsel for the appellants submits that appellants has 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 appellant has not committed any offences as alleged in the F.I.R. He further submits that it appears from the F.I.R. that the respondent no. 2 is working as a Marketing Representative in Barnet Homeopathy Pvt. Ltd and as per the allegation in the F.I.R. that all the accused persons including the appellant have assaulted the respondent no. 2 but it appears from the F.I.R. that no specific allegation of any assault or overact is attributed against the appellant rather there is general and omnibus allegation is attributed against all the accused persons including the appellant and with respect to the abusing by caste name, it appears that after pronouncement of judgment by Hon'ble Apex Court, the caste which belongs to the appellant is now in EBC Category.

6. Learned Special Public Prosecutor for the State has



vehemently opposed the prayer for bail of the appellant and submits that the appellant carries three cases 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 Castes and Scheduled Tribes Act is made out.

8. Hence, 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 Sessions Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur in connection with Sultanganj P.S. Case No. 376 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. 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)

Jyoti Kumari/-

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