

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5147 of 2023**

Arising Out of PS. Case No.-320 Year-2023 Thana- RAFIGANJ District- Aurangabad

1. DHAWANTI DEVI @ DHANWARTI DEVI W/O MAHARAJ YADAV @ MAHARAJA YADAV R/O VILLAGE- MUNDALA KHAIRI, PS. RAFIGANJ, DISTT. AURANGABAD.
2. OM PRAKASH YADAV S/O MAHARAJ YADAV @ MAHARAJA YADAV R/O VILLAGE- MUNDALA KHAIRI, PS. RAFIGANJ, DISTT. AURANGABAD.

... .. Appellant/s

Versus

1. The State of Bihar
2. GITA DEVI W/O KAMLESH PASWAN R/O VILLAGE- MUNDALA KHAIRI, PS. RAFIGANJ, DISTT. AURANGABAD, BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lal Bahadur Singh, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Spl. P.P.

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

5 15-07-2025 Heard Mr. Lal Bahadur Singh, learned counsel for the appellants as well as Ms. Usha Kumari 1, learned Spl.P.P. for the State.

2. Despite valid service of notice upon respondent No.2, no one appears 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 19.08.2023 passed by the learned Court of Exclusive Special Judge, SC/ST, Patna, in connection with Rafiganj P.S. Case No.320 of 2023, F.I.R. dated 27.07.2023 registered under



Sections 341, 323, 427, 504, 34 of the Indian Penal Code and Sections 3 (i) (r) (s) (w) 3(2) (va) of the Scheduled Castes and Scheduled Tribes Act.

4. According to the prosecution case, on 26.07.2023 around 10:00 AM, informant Gita Devi alleged that Maharaj Yadav let his cattle feed on her paddy field. When she objected, he abused her using caste-based slurs, pulled her down by wrapping a towel around her neck, and, along with his wife, assaulted her. He also called his son to graze more crops. Later, when some villagers gathered, and she managed to escape.

5. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. From a bare perusal of F.I.R., it appears that due to some petty dispute, the present occurrence has taken place. Although, the appellants are named in the F.I.R., but from a bare perusal of the F.I.R., it appears that the only allegation against the appellants is that they assaulted the informant. Learned counsel for the appellant submits that there is no eye-witness of the present occurrence and the allegations, as alleged in the F.I.R., are false and fabricated and the date of occurrence, as alleged in the F.I.R. is 26.07.2023 but the present F.I.R. has been instituted on 27.07.2023, after delay of one day,



without giving any explanation of delay, only to falsely implicate the appellants.

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

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. Considering the aforesaid facts and circumstances, the appellants have clean antecedent and there is no specific allegation against the appellants as alleged in the F.I.R, 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 Court of Exclusive Special Judge, SC/ST, Patna, in connection with Rafiganj P.S. Case No.320 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 tamper 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)

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