

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5437 of 2023

Arising Out of PS. Case No.-178 Year-2023 Thana- BIHARIGANJ District- Madhepura

1. Hari Shankar Yadav Son Of Late Boudhi Prasad Yadav @ Boudhi Yadav Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura.
2. Mintu Kumar@ Amardeep Azad @ Amarjit Azad Son Of Hari Shankar Yadav Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura.
3. Ranjana Devi Wife Of Hari Shankr Yadav Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura.
4. Mithilesh Yadav Son Of Late Jai Prakash Yadav Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura.
5. Bhagwan Mandal Son Of Late Yogesh Mandal Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Arvind Paswan Son Of Late Madho Paswan Resident Of Village- Kathautiya, Ward No.-4, P.S.- Bihariganj, District- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Praveen Kumar Agrawal, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.P.P.
For the respondent no. 2	:	Mr. Surya Narayan Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-05-2025 Heard Mr. Praveen Kuamr Agrawal, learned counsel for the appellants as well Mr. Surya Narayan Yadav, learned counsel for the respondent no. 2 and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 12.10.2023 passed by the learned Additional Sessions Judge-I-



cum-Special Judge, Madhepura in ABP No. 1262 of 2023 in connection with SC/ST Bihariganj P.S. Case No. 178 of 2023, F.I.R. dated 18.07.2023 registered under Sections 341, 323, 325, 379, 504, 506 and 34 of the Indian Penal Code and Sections 3 (i) (r) (s) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, all these appellants over a petty dispute, assaulted the respondent no. 2 and also abused him by taking his caste name.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. Although, the appellants are named in the F.I.R. but there is no specific allegation of assault or overact against these appellants rather there is general and omnibus allegation against all the accused persons including these appellants. He further submits that it appears from the F.I.R. that due to admitted land dispute the present occurrence took place and 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.

6. Learned counsel appearing on behalf of the Respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellants and submits that the appellants have committed the present crime in question and apart from the with a common intention, they have assaulted the informant and his family members.

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, the appellants have clean antecedent and in view of the aforesaid judgment (supra), no case is made out against the appellants in the SC/ST Act, 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-I-cum-Special Judge, Madhepura in connection with SC/ST Bihariganj P.S. Case No. 178 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/-

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

