

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5320 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- SC/ST District- East Champaran

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1. SUMITRA DEVI @ REETA DEVI W/O YOGYANAND TIWARI VILLAGE- KUDAVKAT,PS. CHHAURADANO, DIST. EAST CHAMPARAN, MOTIHARI.
 2. YOGYANAND TIWARI S/O JYOTIK TIWARI @ JOTIK TIWARI @ JYOTI VILLAGE- KUDAVKAT,PS. CHHAURADANO, DIST. EAST CHAMPARAN, MOTIHARI.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. KAPILDEO PASWAN S/O BASUDEO PASWAN VILLAGE- KUDAVKAT,PS. CHHAURADANO, DIST. EAST CHAMPARAN, MOTIHARI.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar, Advocate
For the Resp. No.2	:	Mr. Rahul Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 01-07-2025 Heard Mr. Rajesh Kumar, learned counsel for the appellants, Mr. Rahul Singh, learned counsel for the Respondent No.2 as well as Mr. Binay Krishna, learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 10.10.23 and 21.12.2023 passed by the learned Special Judge SC/ST Act, East Champaran, Motihari in A.B.P No. 4707/2023 arising out of SC/ST P.S. Case No. 03 of 2023, F.I.R. dated 11.01.2023 registered under Sections 420, 406, 323, 467, 469 of the Indian Penal Code and Sections 3(1)(r) (s) of the Scheduled Castes and Scheduled Tribes



Act.

3. According to the prosecution case, the informant alleged that on 14.11.2022 when he went along with the Panches to ask the appellants to pay the dues amount for the registration of land, the appellants assaulted and abused him by caste name.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. It appears from the FIR/Complaint Petition that due to admitted land dispute the present occurrence has taken place. Although before the institution of the present case, the appellant no.2 had filed a Complaint Case No.465 of 2022 on 10.11.2022 against the informant and other accused persons and the present complaint has been filed on 02.12.2022 and apart from that the present occurrence took place in the house of the informant which is not a public place, so no case is made out under SC/ST Act. He further refers to paragraph no.18 of the judgment reported in **(2020) 10 SCC 710 (Hitesh Verma vs. State of Uttarakhand & Anr.)** which is quoted hereinbelow:-

“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 ScheduledTribe 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. Learned Special Public Prosecutor for the State and learned counsel for Respondent No.2 have vehemently opposed the prayer for bail of the appellants.

6. 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.

7. Considering the aforesaid facts and circumstances, appellants have clean antecedent and there is case and counter case between the parties and in view of the aforesaid judgment, 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 Court of Special Judge SC/ST Act, East Champaran, Motihari in connection with SC/ST P.S. Case No. 03 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.

8. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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