

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5479 of 2023

Arising Out of PS. Case No.-223 Year-2023 Thana- KATORIYA District- Banka

NARESH RAI @ NARESH RAY SON OF LATE BUDHAN RAY R/O
VILLAGE- SIKATIYA, P.S.- KATORIA, DISTRICT- BANKA

... .. Appellant/s

Versus

1. The State of Bihar
2. RAMDEO KOL SON OF LATE MAUJI KOL R/O VILLAGE- SIKATIYA,
P.S.- KATORIA, DISTRICT- BANKA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Mukherjee, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP
For the Respondent No.2:	:	Mr. Dhananjay Kumar Pandey, Advocate
	:	Mr. Ashok Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 06-05-2025 Heard Mr. Ajay Mukherjee, learned counsel for the appellant, Mr. Dhananjay Kumar Pandey, learned counsel for 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 04.10.2023 passed by the learned Additional Sessions Judge-I-cum-Special Judge SC/ST Act, Banka in A.B.P. No. 1509 of 2023 arising out of Katoria P.S. Case No. 223 of 2023, F.I.R. dated 02.07.2023 registered under Sections 341, 323, 327, 385, 504 and 506/34 of the Indian Penal Code and Sections 3(i)(r)(s)(g)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.



3. According to the prosecution case, the informant alleged that the appellants along with co-accused persons tilth field of the informant and on protest they assaulted and abused the informant.

4. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. From bare perusal of FIR it appears that there is no specific allegation of assault against the accused persons including this appellant and there is admitted land dispute between the parties and apart from that the appellant did not abuse the informant by taking his caste name. 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 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. Learned Special Public Prosecutor for the State and



learned counsel for the Respondent No.2 have vehemently opposed the prayer for bail of the appellant.

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 facts and circumstances, appellant has clean antecedent and in view of the aforesaid judgment, no offence under the provisions of Scheduled Castes and Scheduled Tribes Act is made out, let the appellant, above named, in the event of his 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 Additional Sessions Judge-I-cum-Special Judge SC/ST Act, Banka in A.B.P. No. 1509 of 2023 arising out of Katoria P.S. Case No. 223 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. Appellant 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the appellant 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 appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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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