

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5519 of 2023

Arising Out of PS. Case No.-153 Year-2023 Thana- RISIYAP District- Aurangabad

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1. ZUBAIR KHAN @ ZUBAIR HUSSAIN S/O LATE TAHID HUSSAIN R/O VILLAGE- GHOGHRA, P.S- RISIUP, DISTT.- AURANGABAD (BIHAR).
 2. MD. SALMAN KHAN @ SALMAN HUSSAIN S/O ZUBAIR KHAN @ ZUBAIR HUSSAIN R/O VILLAGE- GHOGHRA, P.S- RISIUP, DISTT.- AURANGABAD (BIHAR).
 3. MD. ISHARAIL ANSARI @ MD. ISHARAIL S/O PACHKUDI ANSARI R/O VILLAGE- GHOGHRA, P.S- RISIUP, DISTT.- AURANGABAD (BIHAR).

... .. Appellant/s

Versus

1. The State of Bihar
2. UDAY PASWAN S/O CHHATTU PASWAN R/O VILLAGE- GHOGHRA, P.S- RISIUP, DISTT.- AURANGABAD (BIHAR).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shailesh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP
For the Respondent No.2:	:	Mrs. Mukul Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-05-2025 Heard Mr. Shailesh Kumar Singh, learned counsel for the appellants, Mrs. Mukul Kumari, 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 18.10.2023 passed by the learned Court of Special Judge (SC/ST)-cum-1st Additional District & Sessions Judge, Aurangabad in connection with Risiup P.S. Case No. 153 of



2023, F.I.R. dated 28.09.2023 registered under Sections 147, 148, 149, 341, 323, 307, 337, 447, 427 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, the informant alleged that due to petty dispute the appellants along with other accused persons assaulted the informant and his family members.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. The present case is the counter blast of Rishiup P.S. Caste No. 152 of 2023 lodged by the appellant side and from bare perusal of the FIR it transpires that there is no specific allegation of assault or overt act or taking caste name against the appellants rather there is general and omnibus allegation against accused persons including these appellants and the injury report of the injured persons suggest that injury is simple in nature caused by hard and blunt substance.

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 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 no specific allegation against the appellants and there is case and counter case between the parties, 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)-cum-1st Additional District & Sessions Judge, Aurangabad in connection with Risiup P.S. Case No. 153 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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