

Arising Out of PS. Case No.-107 Year-2023 Thana- PURNAHYA District- Sheohar

Nitesh Kumar Singh @ Nitesh Kumar @ Chotu S/O Manoj Kumar Singh R/O
Village- Barahi Jagdish Tola, P.S- Purnahya, Distt.- Sheohar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sabhajit Singh S/O Late Shyamna Singh R/O Village- Barahi Jagdish, P.S- Purnahya, Distt.- Sheohar- 843334.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 5523 of 2023

Arising Out of PS. Case No.-107 Year-2023 Thana- PURNAHYA District- Sheohar

Sudhir Kumar Singh Son of late shri krishan singh resident of village- Barahi
Jagdish, p.s.-Purnahiya, district- sheohar

... .. Appellant/s

Versus

1. The State Of Bihar
2. Sabhajit Singh Son Of Late Shyam Narayan Singh Resident Of Village-
Barahi Jagdish, P.S.-Purnahiya, District- Sheohar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 5640 of 2023)

For the Appellant/s : Mr. Vatsal Verma, Advocate

For the Resp. No. 2 : Ms. Priyam Kumari, Advocate

For the State : Ms. Usha Kumari 1, Spl. P.P.

(In CRIMINAL APPEAL (SJ) No. 5523 of 2023)

For the Appellant/s : Mr. Devendra Kumar, Advocate

For the Resp. No. 2 : Ms. Priyam Kumari, Advocate

For the State : Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-05-2025 Heard Mr. Vatsal Verma, learned counsel for the
appellant, namely, Nitesh Kumar Singh, Mr. Devendra Kumar,
learned counsel for the appellant, namely, Sudhir Kumar Singh,



Ms. Priyam Kumar, learned counsel for the Respondent No. 2/Informant as well as Ms. Usha Kumari-1, learned Special Public Prosecutor for the State (in both the appeals).

2. This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 13.10.2023 in A.B.P. No. 338 of 2023 passed by the learned Additional District & Sessions Judge -cum-Special Judge 1st, Sheohar in connection with Purnahya P.S. Case No. 107 of 2023 registered under Sections 415, 420, 425, 441, 503, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC & ST (Prevention of Atrocities) Act.

3. The prosecution case, in brief, is that the informant is a retired Senior Audit Officer at Indian Railway, after his retirement in the year 2002, he started living along with his family in Gurugram, Haryana and appointed one Chandar Bhaitha as a Manager to look after his ancestral property. On 25.07.2023, the informant received information from his Manager about alleged ploughing over his ancestral land bearing Khata No. 348, Khesra No. 1001, Rakba- 20 decimal by accused persons including the petitioner with intention to



encroach. Upon protest by Manager, they abused him and his wife by taking his caste name and threatened to dire consequences.

4. Learned counsel for the appellant, namely, Nitesh Kumar Singh @ Nitesh Kumar @ Chhotu having one criminal antecedent and appellant namely, Sudhir Kumar Singh having clean antecedent and they have been falsely implicated in the present case. The present case is very unique in the sense that the informant is grand-father of the appellants and the grand-father or the appellants do not belong under the SC/ST community and despite of that the prosecution has instituted the case under the SC/ST Act. Learned counsel for the appellants next submits that in view of the aforesaid, no case is made out under the SC/ST Act and apart from that 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 for the Respondent No. 2/Informant as well as learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellants and submits that the appellants are named in the F.I.R. and there are specific allegation against the appellants as alleged in the F.I.R.

7. Considering the aforesaid facts and circumstances of the case and the fact that the informant does not belong to SC/ST and hence no case is made out against the SC/ST Act and apart from that in view of the judgment of the Hon'ble Apex Court as mentioned aforesaid, in the background of the land



dispute, no case is made out under the SC/ST Act in the background of land dispute, 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 Additional District & Sessions Judge cum Special Judge-1st, Sheohar in connection with Purnahya P.S. Case No. 107 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 along with other following conditions :-

(1) 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 bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 dated 13.10.2023 is set aside and these appeals stand allowed.

(Rajesh Kumar Verma, J)

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