

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5540 of 2023

Arising Out of PS. Case No.-391 Year-2023 Thana- MUFFASIL District- West Champaran

1. Aliyas Mian @ Mohammad Elias S/o late Nasadin Mian Resident of Village - Chhawani, Mehadiya Bari, Srinagar Ojha tola, Ward No. 04, P.S.- Bettiah (M) Manuapool O.P., District- West Champaran.
2. Sadam Mian @ Sadam Hussain S/o Aliyas Mian @ Mohammad Elias Resident of Village - Chhawani, Mehadiya Bari, Srinagar Ojha tola, Ward No. 04, P.S.- Bettiah (M) Manuapool O.P., District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Fulmati Devi W/o Sukhari Ram Resident of Village - Chhawani, Mehadiya Bari, Srinagar Ojha tola, Ward No. 04, P.S.- Bettiah (M) Manuapool O.P., District- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 24-06-2025 Heard Mr. Sanjeev Kumar, learned counsel for the appellants and Mrs. Usha Kumari-I, learned Special Public Prosecutor for the State.

2. Despite of entered appearance through the Vakalatnama, no one appeared on behalf of the O.P. No. 2.

3. 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 1st Additional District & Sessions Judge-cum-Special Judge (SC & ST), Bettiah, West Champaran, in ABP No. 2985 of 2023 in connection with



Bettiah (M) Manuapool P.S. Case No. 391 of 2023, registered under Sections 147, 149, 341, 323, 307 and 504 of the Indian Penal Code and Sections 3 (i) (r) (s) (ii) (v-a) of the Scheduled Castes and Scheduled Tribes Act.

4. According to the prosecution case, all these appellants over land dispute, assaulted the respondent no. 2.

5. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. He further submits that due to admitted land dispute, the present occurrence has been taken place and the present case is counter blast of Bettiah (M) Manuapool P.S. Case No. 385 of 2023 filed by the wife of appellant no. 2 against the informant and her family members and from the perusal of the F.I.R. it appears that the date of occurrence is 15.04.2023 but the present F.I.R has been instituted on 13.06.2023 i.e., after delay of two months without giving any explanation of the said delay which suggests that the present F.I.R. has been instituted only to falsely implicate the appellants in the present case and apart from that it appears that there is no specific allegation against these appellants of assault rather there is general and omnibus allegation against all the accused persons including these appellants. 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.”

6. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellants and submits that the appellants are named in the F.I.R and there is specific and direct allegation against the appellants that they have assaulted the informant and the injury report of the informant suggests that the injury is grievous in nature.

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 and circumstances, 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 1st Additional District & Sessions Judge-cum-Special Judge (SC & ST), Bettiah, West Champaran in connection with Bettiah (M) Manuapool P.S. Case No. 391 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/-

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