

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5569 of 2023

Arising Out of PS. Case No.-291 Year-2023 Thana- BUXAR INDUSTRIAL District- Buxar

Abhishek Rai @ Sonu Rai SON OF Ram Vichar Rai RESIDENT OF
VILLAGE- ARJUNPUR, PS- INDUSTRIAL AREA BUXAR, DISTT-
BUXAR

... .. Appellant/s

Versus

1. The State of Bihar
2. Poonam Devi W/o Lalbabu Ram R/o vill - Arjunpur, P.S. - Industrial Area,
Distt.- Buxar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ravi Shankar Pathak, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-05-2025 Heard Mr. Ravi Shankar Pathak, learned counsel for

the appellant as well as Mrs. Usha Kumari 1, learned Spl.P.P. for

the State.

2. Despite entered appearance through *Vakalatnama*,
no one appeared on behalf of Respondent No.2.

3. This is an appeal under Sections 14(A)(2) against
refusal of the prayer for anticipatory bail by order dated
02.12.2023 passed by the learned A.D.J-1st-cum-Special Judge,
SC/ST Act, Buxar in A.B.P. No. 1662 of 2023 arising out of
Buxar(I) P.S. Case No. 291 of 2023, F.I.R. dated 20.10.2023
registered under Sections 147, 149, 448, 342, 365, 354(B), 427,
379, 504, 506, 335 of the Indian Penal Code and Sections 3(i)



(r)(s)(wi) and 3(2)(iv)(va) of the Scheduled Castes and Scheduled Tribes Act.

4. According to the prosecution case, the informant alleged that when she was cooking food in her house, the appellant along with other accused persons forcibly entered into the house and tried to outrage her modestly and kidnapped her husband with intention to kill. It is further alleged that on 20.10.2023, all the accused persons including this appellant came at her house and set fire in the house.

5. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. It appears from FIR itself that there is no specific allegation of assault or overt act attributed against the appellant rather the allegation levelled against all the accused persons including this appellant is general and omnibus. He further submits that the occurrence took place in the house of the informant which is not a public place so no offence under SC/ST Act is made out and apart from that husband of the informant has returned home and his statement was recorded under Section 164 of Cr.P.C/183 of BNSS in which he did not supported the prosecution case and he did not stated anything about the appellant.



6. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellant.

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, the appellant has clean antecedent and there is no specific allegation of assault or overt act attributed against the appellant and the occurrence took place in the house of the informant which is not a public place so no offence under SC/ST Act is made out and husband of the informant did not supported the prosecution case in his statement recorded under Section 164 of Cr.P.C/183 of BNSS, 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 A.D.J-1st-cum-Special Judge, SC/ST Act, Buxar in A.B.P. No. 1662 of 2023 arising out of Buxar(I) P.S. Case No. 291 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.

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

(Rajesh Kumar Verma, J)

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