

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5618 of 2023

Arising Out of PS. Case No.-287 Year-2023 Thana- KUDRA District- Kaimur (Bhabua)

1. Kashinath Rai @ Kashi Nath Rai S/O LATE VISHWANATH RAI R/O VILLAGE- MUNJIYAN, PS. KUDRA, DIST. KAIMUR AT BHABHUA
2. RAM NIWAS RAI S/O LATE VISHWANATH RAI R/O VILLAGE- MUNJIYAN, PS. KUDRA, DIST. KAIMUR AT BHABHUA
3. AASHISH KUMAR @ AASHISH KUMAR RAI @ SHIVAM KUMAR RAI S/O SRI NIWAS RAI R/O VILLAGE- MUNJIYAN, PS. KUDRA, DIST. KAIMUR AT BHABHUA
4. KAUSHAL KUMAR @ KAUSHAL KUMAR RAI S/O RAM NIWAS RAI R/O VILLAGE- MUNJIYAN, PS. KUDRA, DIST. KAIMUR AT BHABHUA

... .. Appellant/s

Versus

1. The State of Bihar
2. KRISHNA PASWAN S/O RAM VELAS PASWAN R/O VILLAGE- MUNJIYAN, PS. KUDRA, DIST. KAIMUR AT BHABHUA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar Singh, Sr.Advocate
For the Resp. No.2	:	Mr. Bindeshwar Sah, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-06-2025 Heard Mr. Rajesh Kumar Singh, learned senior

counsel for the appellants, Mr. Bindeshwar Sah, learned

counsel for the Respondent No.2 as well as Mr. Sadanand

Paswan, 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 07.11.2023 passed by the learned Court of Special

Court, Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities) Act, Kaimur at Bhabhua in A.B.P No. 1285 of



2023 arising out of Kudra P.S. Case No. 287 of 2023, F.I.R. dated 31.07.2023 registered under Sections 147, 148, 149, 341, 323, 307, 379, 504, 506 of the Indian Penal Code and Sections 3 (i) (r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, when the informant's son protested appellant no.2 who was cutting soil from wall of the informant, upon this appellant no.2 abused him by caste name. Then the appellants arrived at the house of the informant and assaulted his family member and abused them by caste name.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case due to admitted land dispute between the parties and there is case and counter case between the parties. He further submits that one Title Suit is going between the parties bearing Title Suit No. 825 of 2020. Although there is specific allegation of assault against the appellants and the informant side received injury but the injury report of the injured persons suggest that injury is simple in nature caused by hard and blunt substance. 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 Respondent No.2 have vehemently opposed the prayer for bail of the appellants and submits that appellants are named in the FIR and they have assaulted the family members of the informant.

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 admitted land dispute between the parties and in view of the aforesaid judgment, no case is made out under SC/ST Act, 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 Court, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Kaimur at Bhabhua in connection with Kudra P.S. Case No. 287 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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