

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5676 of 2023

Arising Out of PS. Case No.-54 Year-2023 Thana- DEHRI TOWN District- Rohtas

Harimohan Choudhary @ Harimohan Singh SON OF LATE SHIV
CHAUDHARY RESIDENT OF VILLAGE- BHARIYA TOLA, WARD NO.
21, NEW DILLIYAN, DISTT- ROHTAS

... .. Appellant/s

Versus

1. The State of Bihar
2. DHARMENDRA KUMAR SON OF LATE RAJANI RAM RESIDENT OF
VILLAGE -KATH DEHRI, PO- GOTPA, PS- SASARAM (M), DISTT-
ROHTAS

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwary, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 4 17-06-2025 1. Learned counsel for the petitioner seeks permission
to make necessary correction in paragraph-13(ix) of the memo
of appeal in course of the day.
2. Permission is accorded.
3. Heard Mr. Sanjay Kumar Tiwary, learned counsel
for the appellant as well as Mrs. Usha Kumari 1, learned Spl.P.P.
for the State.
4. Despite of valid service of notice upon Respondent
No.2, no one appeared on behalf of Respondent No.2.
5. This is an appeal under Sections 14(A)(2) against
refusal of the prayer for anticipatory bail by order dated
06.11.2023 passed by the learned Court of Additional District



Judge-XVII-cum-Exclusive Special Judge, SC/ST Rohtas at Sasaram in connection with SC/ST Dehri P.S. Case No. 54 of 2023, F.I.R. dated 14.08.2023 registered under Sections 341, 323, 379, 504, 508/ 34 of the Indian Penal Code and Sections 3(i) (r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

6. According to the prosecution case, the informant alleged that when he was measuring the land which is in the name of his wife along with his two brother then the appellant along with other accused persons arrived and started assault as well as abusing by caste name. It is further alleged that the appellant snatched golden chain from his elder brother and cash of Rs. 12,000/-.

7. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. Although the appellant is named in the FIR but from bare perusal of the FIR it appears that there is no specific allegation of assault or overt act against the appellant rather allegation against the appellant is that he snatched golden chain from the elder brother of the informant and also snatched Rs. 12,000/- from him and due to admitted land dispute the present occurrence took place and the informant



and his family members have encroached the land of the appellant and they have constructed house in the land in question. 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.”

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

9. 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.

10. Considering the aforesaid facts and circumstances, appellant has clean antecedent and there is no specific allegation of assault or overt act against the appellant and there is land



dispute between the parties and in view of the aforesaid judgment, no case is made out under SC/ST Act, 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 Court of Additional District Judge-XVII-cum-Exclusive Special Judge, SC/ST Rohtas at Sasaram in connection with SC/ST Dehri P.S. Case No. 54 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.

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

(Rajesh Kumar Verma, J)

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