

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5655 of 2023

Arising Out of PS. Case No.-94 Year-2023 Thana- MARAUNA District- Supaul

Vimal Kumar Vimal @ Vivek Yadav S/o Bal Krishna Yadav R/o vill-
Bodhrahi, P.S-Marauna, Distt.-Supaul

... .. Appellant/s

Versus

1. The State of Bihar
2. Nilam Devi W/o Satya Narayan Ram R/o vill-Jamuaarahi, Ward no.13, P.S-
Marauna, Distt.-Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Jitendra Bharti, Advocate
For the Informant	:	Mr. Amrit Abhijat, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-05-2025 Heard Mr. Jitendra Bharti, learned counsel for the

appellant, Mr. Amrit Abhijat, learned counsel for the

Respondent No. 2/Informant as well as Mr. Binay Krishna,

learned Special Public Prosecutor for the State.

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 09.11.2023 in A.B.P. No. 1488 of 2023 passed by
the learned Additional Sessions Judge, First-cum-Special Judge,
SC/ST (POA) Act, Supaul in connection with Marauna P.S.
Case No. 94 of 2023 registered under Sections 341, 323, 325,
342, 354, 379, 34 of the Indian Penal Code and Sections 3(1) (r)



(s)/ 3(2)(va) of the SC & ST (Prevention of Atrocities) Act, 1989.

3. Allegation against the appellant is that he along with other co-accused persons have assaulted the informant by means of lathi, danda and slaps and abused her by calling her caste name.

4. Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present case. He further submits that it appears from the F.I.R. as well as Annexure-2 of the present appeal that due to admitted land dispute the present occurrence had taken place and there is case and counter case between the parties and the present allegation took place at the place of the private land of he informant and hence no case is made out under SC/ST Act against the appellant and as per allegation against the appellant that he assaulted the informant, although she has received injury but the injury report of the informant suggests that the injury is simple in nature 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 appellant.

6. Learned counsel for the Informant as well as learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellant and submits that the appellant carries one more case other than the present one but fairly submits on the basis of paragraph-3 of the bail petition that the appellant is on bail in the pending matter.



7. Considering the aforesaid facts and circumstances of the case, the allegation took place at the place of the private land of the informant/Respondent No. 2 and apart from that there is averment in the F.I.R. that due to admitted land dispute the present occurrence had taken place and in view of the judgment of Hon'ble Apex Court as mentioned aforesaid, no case is made out under SC/ST Act, let the appellant, above named, in the event of his 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) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge, First-cum-Special Judge, SC/ST (POA) Act, Supaul in connection with Marauna P.S. Case No. 94 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) 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.



(2) If the appellant tampers 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 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 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 09.11.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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