

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5666 of 2023

Arising Out of PS. Case No.-178 Year-2023 Thana- SATHI District- West Champaran

1. Khurseed Alam @ Khurshed Alam Son of Late Sk. Salauddin R/o vill - Semri, P.S. - Sathi, Distt. - West Champaran
2. Javed Asraf Son of Late Sk. Salauddin R/o vill - Semri, P.S. - Sathi, Distt. - West Champaran
3. Sudama Mahto Son of Late Ramrup Mahto R/o vill - Bhagauna, P.S. - Sathi, Distt - West Champaran
4. Sk. Barkat @ Md. Barakat Son of Sk. Kuresh R/o vill - Baswariya, P.S. - Sathi, Distt. - West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Umesh Sah Son of Late Manergar Sah R/o vill - Bhagauna, P.S. - Sathi, Distt. - West Chamaparan

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Sarvesh Kashyap, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-05-2025 Heard Mr. Sarvesh Kashyap, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. Despite of valid service of notice upon Respondent No. 2, no one appears on behalf of Respondent No. 2.

3. 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 16.10.2023 passed by the learned Additional



District & Sessions Judge 1st cum Special Judge (SC & ST), Bettiah, West Champaran in connection with Sathi P.S. Case No. 178 of 2023 registered under Sections 147, 148, 149, 341, 323, 448, 452, 379, 504, 506 of the Indian Penal Code and Sections 3(1) (r)(s), 2 (va) of the SC & ST Act.

4. Allegation against the appellants is that they along with other co-accused persons have assaulted the informant and his family members and abused in the name of his caste.

5. Learned counsel for the appellants submits that the appellant no. 1 carries one more case, appellant no. 2 carries one more case, appellant no. 3 carries four more cases and appellant no. 4 carries two more cases other than the present one and they have been falsely implicated in the present case. Although, the appellants are named in the F.I.R. but it appears from the F.I.R. as well as counter case filed on behalf of the appellants' side which suggests that due to admitted land dispute the present occurrence had taken place and apart from that from perusal of the F.I.R. the allegation took place in the house of the informant which is not a public place and apart from that it appears from the F.I.R. that the appellants have not abused his caste name in the public place and hence no case is made out under the SC/ST Act against the appellants 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.”

6. 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 appellants.

7. Learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for anticipatory bail of the appellants and submits that the appellant no. 1 carries one more case other than the present one, appellant no. 2 carries



one more case other than the present one, appellant no. 3 carries four more cases other than the present one, out of four cases the appellant no. 3 is on bail in three cases and appellant no. 4 carries two more cases other than the present one, out of two cases, the appellant no. 4 is on bail in one case as mentioned in paragraph-3 of the bail petition.

8. Considering the aforesaid facts and circumstances of the case that there is case and counter case between the parties and the admitted fact that due to land dispute, the present occurrence had taken place and in view of judgment of Hon'ble Apex Court as mentioned aforesaid, no case is made out under SC/ST Act, let the appellants, above named, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge cum Special Judge, SC/ST, Bettiah, West Champaran in connection with Sathi P.S. Case No. 178 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) 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 bonds shall be cancelled by the Court below.

(2) If the appellants tamper 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 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 dated 16.10.2023 is set aside and this appeal stands allowed.

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(Rajesh Kumar Verma, J)

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