

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.122 of 2025

Arising Out of PS. Case No.-436 Year-2024 Thana- RAMNAGAR District- West Champaran

1. Himanshu Kumar Son of Rampravesh Prasad @ Rampravesh Kushwaha
2. Rakesh Kumar Kushwaha
3. Raj Kumar Kushwaha
Appellant Nos.2 and 3 are Son of Late Nagendra Prasad.
4. Rampravesh Prasad @ Rampravesh Kushwaha
5. Amit Kumar @ Amit Kushwaha
Appellant Nos.4 and 5 are sons of Late Nathu Prasad @ Nathu Kushwaha.
6. Lalan Mahato Son of Bindeshwari Mahto
7. Kashi Mahato
8. Narad Mahato
9. Vyas Mahato
10. Dinesh Kushwaha @ Dinesh Mahato
Appellant Nos.7 to 10 are sons of Late Shivdhari Mahto @ Rudal Mahto.
All are Resident of Village- Diuliya Babhani, P.S.- Ramnagar, District- West Champaran
... .. Appellant/s

Versus

1. The State of Bihar
2. Jagnarayan Sah @ Jaynarayan Sah Son of Late Sanhu Sah Gond Resident of Village- Diuliya Babhani, P.S.- Ramnagar, District- West Champaran
... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-05-2025 Heard Mr.Bimlesh Kumar Pandey, learned counsel
for the appellant, learned counsel for respondent No.2 and
Mr.Usha Kumari 1, learned Spl.P.P. 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 09.12.2024 passed in A.B.P. No.2550 of 2024



by the learned District and Additional Sessions Judge-1st-cum-Special Judge SC/ST Act, Bettiah, West Champaran in connection with Ramnagar P.S. Case No.436 of 2024, FIR dated 20.09.2024 registered under Sections 191(2), 190, 329(3), 126(2), 115(2), 76, 303(2), 351(2), 352 of Bhartiya Nyay Sanhita and Sections 3(1)(r)(s), 3(ii)(va) of the Scheduled Castes and Scheduled Tribes Act.

3. The prosecution case in brief is that the informant namely Jaynarayan Sah has given written application before Ramnagar P.S. and alleging therein that on 19.09.2024 at about 12:23 A.M. all FIR named 17 persons and 20-25 unknown persons came with sticks, lathis, spears spades, iron rods and gun and started forcibly making hut in the purchase land of the informant which is situated in front of his house and hearing the sound of that he woke up and came out of the house and saw that all the FIR named persons making a hut, on protest Ramprasad, attacked on his neck with a spade seeing this he ran away in other direction, the stings started tearing him apart, Amit hit him with a rod due to which his head broke and he started screaming then his brother and nephew came then all person also beaten them. Then Rajkumar fired a shot from a single barrel gun, fearing which his family members ran inside



the house, then the accused persons gathered together and entered his house and started beating his family, on protesting they tied his wife, dragged her and striped her naked and took away all his belongings when called on 112 the team immediately reached on the spot and he was treated.

4. Learned counsel for the appellants submits that appellant Nos.1 and 8 have clean antecedent. Appellant Nos.6,7,9 and 10 carries one more case and appellant No.2,3,4,5 carries three more cases other than the present one and they have falsely been implicated in the present case. From a bare perusal of the FIR it appears that the place of occurrence is at the door of the informant which is not a public place so no case is made out under the SC/ST Act against the appellants and apart from that, it transpires from the FIR itself that due to admitted land dispute the present occurrence had taken place and 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 appellants and apart from that, the specific allegation of assault is attributed against appellant Nos.4 and 5 that they have assaulted to the informant and his family members. Although some of the persons have received the injury but the injury report of the injured persons suggests that the injury is simple in nature caused by hard and blunt substance and apart from that, one Partition Suit No.70/2003 is pending between the parties.

6. The learned counsel for respondent No.2 as well as learned Spl.P.P. for the State have vehemently opposed the prayer for anticipatory bail of the appellants and submits that the



appellants are named in the FIR and apart from that, there is specific allegation against them that they have assaulted to the informant and his family members.

7. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Schedule Castes and Scheduled Tribes Act is made out.

8. Considering the aforesaid facts, due to admitted land dispute the present occurrence had taken place, there is case and counter case, in view of the judgment of the Hon'ble Apex Court no case is made out under the SC/ST Act against the appellants and apart from that, the place of occurrence is at the house of the informant which is not a public place, 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 District and Additional Sessions Judge-1st-cum-Special Judge SC/ST Act, Bettiah, West Champaran in connection with Ramnagar P.S.Case No.436 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the BNSS, 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 tamper 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.

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

(Rajesh Kumar Verma, J)

Nitesh/-

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