

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3152 of 2025

Arising Out of PS. Case No.-27 Year-2025 Thana- SHAMBHUGANJ District- Banka

1. Raj Kumar Sah S/o Late Suresh Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
2. Ajay Sah @ Ajay Kumar S/o Late Suresh Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
3. Ashwani Sah @ Ashwani Kumar S/o Manoj Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
4. Varun Sah @ Varun Kumar S/o Manoj Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
5. Bishnu Sah @ Vishnu Kumar S/o Dilip Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
6. Soni Devi W/o Raj Kumar Sah R/o Village- Malda, PS- Shambhuganj, District- Banka
7. Rani Devi @ Runa Devi W/o Manoj Sah R/o Village- Malda, PS- Shambhuganj, District- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Laxmi Paswan S/o Late Sugdeo Paswan R/o Village- Malda, PS- Shambhuganj, District- Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Gun Sagar Mahto, Advocate
For the Respondent/s	:	Mr.Binay Krishna, SPL. PP
For the informant	:	Mr. Dhananjay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 23-02-2026 Heard learned counsel for the appellants; learned Spl. PP for the State and learned counsel for the informant.

2. The appellants have preferred the appeal under Section 14(A)(2) of the SC/ST (POA) Act against the rejection of prayer for pre-arrest bail *vide* order dated 17.05.2025 passed by learned Additional Sessions Judge-I-cum-Special Judge,



SC/ST Act, Banka in connection with Shambhuganj P.S. Case No. 27 of 2025 registered under Sections 126(2), 115(2), 303(2), 110, 352, 351,(2), 3(5) of the BNS and Sections 3(i)(r)(s) of the SC/ST Act.

3. As per the allegation made in the F.I.R., the accused persons named therein including the appellants are said to have entered into the house of the informant and thereafter assaulted the informant and they also used caste narrated words against him in public view.

4. Learned counsel appearing on behalf of the appellants submitted that appellants are innocent and have falsely been implicated in the present case. Upon the complaint of the appellant no.1 against the informant, who is a *Chowkidar* and belongs to scheduled caste, local officer has initiated Encroachment Case No. 2 of 2023-24 under Bihar Public Land Encroachment Act and in retaliation of the same, the informant has lodged the present FIR against the appellants. The information in respect of encroachment case has been brought on record by way of Annexure P/2 (letter no.358 dated 22.12.2024). Learned counsel further submitted that no injury has been sustained by the informant. He further submitted that the alleged incidence had taken place inside the house of the



informant, which is neither a public place nor did it take place in public view. Learned counsel in these backgrounds submitted that no case as alleged in the FIR is made out against the appellants and they deserve to be released on pre-arrest bail.

5. *Per contra*, Mr. Dhananjay Kumar Pandey, learned counsel, has tendered his appearance on behalf of the informant and submitted that the allegation under SC/ST Act is made out against the appellants and as such, the appellants don't deserve to be released on pre-arrest bail.

6. Learned SPL. PP appearing on behalf of the State also submitted that the anticipatory bail is not maintainable and as such, the present appeal is fit to be dismissed *in limine*.

7. However, at this stage, both the parties, taking into consideration the nature of allegation and admitted position that said incidence has taken place inside the house of the informant and as claimed by the appellants that no injury has been sustained by the informant as alleged, the parties have agreed to settle their dispute amicably outside the Court.

8. Having heard the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR, I find that the dispute has arisen as a result of information given by the appellant no.1 before the Circle



Officer, pursuant to which Encroachment Case No.2/2023-24 has been initiated. The informant is local *Chowkidar* and he has taken advantage of the same and has lodged FIR against the appellants. I find from the present FIR that the present dispute can be said to be a private dispute and is of civil in nature and don't seem to be caste motivated. Both the parties now want to settle the dispute amicably outside the Court to buy peace of mind. The Hon'ble Supreme Court in case of ***Ramawatar vs The State Of Madhya Pradesh*** reported in ***2021 SCC OnLine SC 966***, has stipulated that *"it cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case."*

9. In the present case, the informant on his own free will without any compulsion wants to settle the dispute outside the Court and so is the appellants.

10. In this regard, I find it apt to take note of the observation made by the Apex Court recently in case of



Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr. reported in **(2025) 4 SCC 78**, in para-11 to 20, which are reproduced hereinafter:

“11. Before we apply this judgment to the facts, it will be worthwhile to recall the observations of Sikri, J. in Narinder Singh (supra):-

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well..."

(Emphasis supplied)

12. Coming back to Laxmi Narayan (supra), this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or whether there is evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to whether the injuries are inflicted on the vital/delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of chargesheet/framing of charges or during the trial. [See 15.4 of Laxmi Narayan (supra)].

13. Coming to the facts of the case, admittedly, there is a settlement between the parties. The case filed by the appellants' party which was prior in point of time and that too on the same day of occurrence, has been settled.

14. It should be recalled that, at the outset, after investigation, the police actually closed the case in its final report of 07.09.1991. It was the trial Court, which by its order of 05.09.1992, refused to accept the same and summoned the appellants. The incident is of 11.08.1991, i.e. about 33½ years back. No doubt, there is a reference to the firing in the FIR



but admittedly there was no injury. The allegation is that firing was done by Abdul Waris. He is since deceased. The facts, assuming to be true, also do not make out a case of common object for the appellants under Section 149 IPC insofar as the offence of Section 307 is concerned.

15. The role attributed to the seven members, including the five appellants is not specific. General allegation was that they abused in filthy language and assaulted Mahmood with lathi and iron bars. The specific individual role was only attributed to Adbul Waris, who is since deceased.

16. In any event, the police who investigated disbelieved the entire story. No recoveries have been made of any pellets. What engaged the attention of the High Court was only the fracture of the head of the distal phalanx of left finger of respondent No.2.

17. We have seen the injuries sustained by Mahmood (R-2) from the medical evidence collected. From the injury report, it is clear that while the first four injuries were contusions and abrasions, injury Nos. 5, 6 and 7 pertained to incised lacerated wound and swelling on the middle finger of the left hand. We have also seen the x-ray report which shows that in the left hand there was a fracture of the head of distal phalanx of left ring finger. Assuming that this was the result of injury with lathis or iron bar, applying the test in Laxmi Narayan (supra), considering the injury and the nature of the weapon used, certainly no offence under Section 307 IPC is made out.

18. Section 307 of IPC reads as under:-

"307. Attempt to murder.-

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.- When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

19. Keeping in mind the surrounding circumstances, the nature of the weapon and the nature of the



injury, on facts, we are inclined to conclude that the overt act attributed to the appellants does not bring the case within the four corners of the Section 307 of IPC, either on a stand-alone basis or as held above with the aid of Section 149 of IPC.

20. We are also inclined to conclude that considering the overall circumstances, the nature of the weapon and the nature of the injury (fracture of the head of distal phalanx of left ring finger), the offence alleged, on facts, does not fall in that category of cases where the court should deny relief in the event of a settlement. At the highest, the offence alleged could be one under Section 326 of IPC. It could not be said, on facts, considering all the circumstances that this is a crime which has such an harmful effect on the public and that it has the effect of seriously threatening the well-being of the society. We make it clear that we are saying so on the facts of the present case. We are also firmly of the opinion that proceeding with the trial, when parties have amicably resolved the dispute in the present case, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process to let this trial remain pending under the above circumstances, particularly when the dispute is settled and resolved.”

11. Learned counsel appearing on behalf of the respective parties, on instructions, submitted that the parties have agreed to appear before the learned District Court at 10:30 A.M. on 09.03.2026, so that the matter can be referred to the District Mediation Centre.

12. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties to give effect to “Mediation for the Nation 2.0.”



13. Learned Mediator of the District Mediation Center concerned upon appearance of the parties on the fixed date shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of three months, till then, no coercive action shall be taken against the appellants in connection with the aforesaid case.

14. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, in light of the law laid down by the Apex Court, the appellants are required to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

15. In case of failure on the part of the appellants to appear on 09.03.2026 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the appellants shall automatically lose its force.

16. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the appellants shall continue and the trial shall proceed in accordance with law.

17. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy. Then also,



appellants are directed to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

18. With aforesaid direction and observation, the present appeal stands disposed of.

(Purnendu Singh, J)

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