

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3045 of 2025

Arising Out of PS. Case No.-308 Year-2025 Thana- HISUWA District- Nawada

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Gaurav Kumar S/o Jay Singh, R/o - Bari Bigha, P.S - Hisua, District - Nawadah

... .. Appellant/s

Versus

1. The State of Bihar through the Special P.P. SC and ST Act
2. Chhotu Kumar S/o Sri Chaudhary R/o Vill.- Hisua, Nala Par, P.S.- Hisua, Dist.- Nawada.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Arun Kumar, Advocate.
For the Respondent/s	:	Mr.Binay Krishna, Spl.PP.
For O.P. No.2	:	Mr. Dharendra Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 23-02-2026 Heard learned counsel appearing on behalf of the appellant, learned counsel for the O.P. No.2 and learned Spl. PP for the State.

2. The appellant has preferred the present appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act against the rejection of prayer for pre-arrest bail, vide order dated 27.06.2025 passed by the learned Exclusive Special Judge, Special Court, SC&ST Act, Nawada in connection with Hisua PS Case No.308 of 2025, registered for the offences under Sections 126(2), 115(2), 117(2), 109(1), 352, 303(2) and 3(5) of BNS and Section 3(1)(r) (s)(t) and 3(2)(v) of SC/ST Act.



3. The prosecution case, in brief, is that the informant, Chhotu Kumar, gave his fardbeyan before the S.I. of Hisua Police Station alleging that on 25.05.2025 at about 3:00 P.M., while he had gone with his family to a doctor for treatment, the accused persons, including the appellant, arrived there armed with an iron rod. They allegedly forcibly took him to Bhulan Bigha, abused him by taking his caste name, and assaulted him with the iron rod on various parts of his body, causing injuries to his head and other parts. On raising alarm, nearby people assembled, whereupon the accused persons fled from the spot. It is further alleged that the accused persons snatched his mobile phone and gold chain. The informant also stated that 2–3 days prior to the occurrence, the accused had knocked at his door, leading to a confrontation, and that the present incident was committed in retaliation thereof.

4. Learned counsel appearing on behalf of the appellant submitted that from perusal of the F.I.R., it is apparent that the informant has not disclosed the place where the incident took place. The informant has merely alleged that he was taken to Bhulan Bigha and in absence of any specific allegation that the appellant's overt act was in public view, no allegation as alleged in the F.I.R. under SC/ST Act is made out. So far as the



allegation of assault is concerned, the same is also not substantiated by the injury report. On these grounds, the learned counsel submitted that the allegation being general and omnibus, the appellant seeks to be released on pre-arrest bail.

5. *Per contra*, Mr. Dhirendra Singh has tendered his appearance on behalf of the O.P. No.2 and he has submitted that the Apex Court recently in the case of ***Kiran Vs. Rajkumar Juvraj Jain & Anr.*** in ***Special Leave Petition (CRL.) No.8169 of 2025***, while emphasizing the operational ambit of Section 18 of the SC/ST Act, held that allowing anticipatory bail by the High Court was unwarranted. On these grounds, the appellant don't deserve to be released on pre-arrest bail and his case may be dismissed.

6. Learned Spl. P.P. submitted that in the recent judgment, the Apex Court while considering the scope of Section 18 of SC/ST Act has observed that only in the cases where offence can not be said to have been made out on a very *prima facie* consideration, the court may exercise discretion to grant pre-arrest bail to the accused.

7. To appreciate the rival submissions, it will be apposite to refer to the provisions of Sections 3(1)(r) and 3(1)(s) of SC/ST Act, which is *inter alia* as follows : -



“3. Punishments for offences of atrocities.-

(1) (r) Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.”

8. Having considered the rival submissions made on behalf of the parties, as well as, having given thoughtful consideration to the allegations made in the FIR, I find that the place of offence has not been discussed in the F.I.R., the information in respect of the place where the offence took place is Bhulan Bigha, prima facie in absence of any specific information regarding the place of occurrence, it cannot be said that the place where the incident has taken place is within the public view and the offences can come within the provisions of Section 3(1)(r) or Section 3(1)(s) of SC/ST Act.

9. So far as allegation of assault is concerned, in absence of any injury having found on the person of the informant, learned District Court is directed to verify from the injury report as to whether the injury sustained by the informant is simple or grievous in nature, upon verification of the injury report and the opinion of the doctor, if it is found that the appellant has sustained grievous injury on the vital part of the body, in that case, the appellant don't deserve to be released on



bail or otherwise the appellant, above named, be released on re-arrest bail, in the even of his arrest or surrender before the learned court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned District Court where the case is pending in connection with in connection with Hisua PS Case No.308 of 2025, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/482 of the BNSS.

10. Accordingly, the present criminal appeal stands disposed of.

(Purnendu Singh, J)

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