

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.3872 of 2024**

Arising Out of PS. Case No.-208 Year-2024 Thana- RAFIGANJ District- Aurangabad

1. Bhola Shah @ Gulam Hasnain @ Gulam Haisain Son of Mahmud Shah Resident of Village - Kazichak Ward No.7, P.S. - Rafiganj, District - Aurangabad
2. Manna Shah @ Gulam Hassan Son of Mahbub Shah @ Mahbub Alam Resident of Village - Kazichak Ward No.7, P.S. - Rafiganj, District - Aurangabad
3. Mahbub Shah @ Mahbub Alam Son of Late Israil Resident of Village - Kazichak Ward No.7, P.S. - Rafiganj, District - Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Upendra Chaudhary Son of Late Banshi Chaudhary @ Wanshi Chaudhary Resident of Village - Kazichak, P.S. - Rafiganj, District - Aurangabad

... .. Respondent/s

**Appearance :**

|                    |   |                                  |
|--------------------|---|----------------------------------|
| For the Appellants | : | Mr. Ashok Kumar Singh, Advocate  |
| For the State      | : | Mrs. Usha Kumari 1, Special P.P. |
| For Res. No.2      | : | Ms. Leelawati Kumari, Advocate   |

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

6      12-03-2026                      Heard learned counsel for the appellants, Mrs. Usha Kumari-1, learned Special P.P. for the State as well as learned counsel appearing on behalf of the informant.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 11.06.2024, passed by learned Court of Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act-cum-1<sup>st</sup>



Additional District & Sessions Judge, Aurangabad in connection with Rafiganj P.S. Case No.208 of 2024, registered under Sections 341, 323, 504, 506, 307 and 34 of the Indian Penal Code as well as Section 3(I)(d)/3(dha)/3(2)(va) of the SC/ST (POA) Act, 1989.

3. Learned counsel appearing on behalf of the appellants submits that appellants are persons with clean antecedent and the informant alleges that his son had gone to the grocery shop on 24.05.2024 near a mosque, where Bhola, Manna and Mahboob were present from before, further the accused persons abused his son by taking caste name and even assaulted causing injury on head, on account of which, his son became unconscious.

4. Learned counsel for the appellants submits that appellants have been falsely implicated in the instant case by the informant. It is next submitted that from perusal of the allegations, as alleged in the FIR, it would manifest that allegation of assault is not specific. It is next submitted that no doubt it is alleged that the appellants abused the informant's son by taking caste name but then it does not appear probable that all the accused in one go would have hurled abuses against the son of the informant, as such, even allegation of abuse is general



and omnibus in nature. It is further submitted that even the injury suffered by the injured has been opined to be simple in nature. It is next submitted that police in mechanical manner submitted charge-sheet based on which cognizance came to be taken and thereafter process under Section 82 Cr.P.C. was issued on 22.09.2024, i.e., within four months of instituting the instant FIR. It is also submitted that this amply demonstrates that how police in mechanical manner applies for seeking process under Section 82 Cr.P.C. and the court too in mechanical manner issues the same. It is fairly submitted that since cognizance has been taken that amply demonstrates that a *prima facie* offence has been committed and thus bar of Section 18 of the SC/ST act applies but then it is submitted that in the nature of allegation, as alleged, whether it would be prudent for the Court to send the appellants to jail when allegation of abuse and assault is not specific.

5. The learned Special P.P. and the learned counsel appearing on behalf of the informant oppose the appeal but then are not in a position to rebut the submission of the learned counsel appearing on behalf of the appellants that appellants are persons with clean antecedent and the allegation of abuse and assault is not specific.



6. The Court after hearing the learned counsel for the parties was inclined to grant the privilege of bail to the appellants but for the order of cognizance, as such, the appellants are directed to surrender before the learned Trial Court on 24.03.2026 and if the appellants surrender on 24.03.2026, in that event, the learned Trial Court shall consider their case on the same day.

7. The order has been passed in presence of the learned counsel appearing on behalf of the informant.

8. The appeal is disposed of in the aforesaid terms.

**(Satyavrat Verma, J)**

*Sanjay/-*

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

