

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3340 of 2025

Arising Out of PS. Case No.-84 Year-2025 Thana- KACCHWA District- Rohtas

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1. Naga Kahar @ Suraj Kumar Prasad S/o- Shyam Sundar Kahar @ Shyam Sundar Prasad @ Saroj Kumar Prasad Resident of Village- Dhodhandih PS- Kachhawa District- Rohtas
 2. Teju Kahar @ Teju Kumar Prasad S/o- Shyam Sundar Kahar @ Shyam Sundar Prasad @ Saroj Kumar Prasad Resident of Village- Dhodhandih PS- Kachhawa District- Rohtas
 3. Lavkush Kahar @ Lavkush Prasad S/o- Saroj Kumar Prasad @ Shyam Sundar Kahar @ Shyam Sundar Prasad Resident of Village- Dhodhandih PS- Kachhawa District- Rohtas

... .. Appellant/s

Versus

1. The State of Bihar
2. Bhim Ram S/o- Shivdeni Ram Village- Dhodhandih Ps- Kachhawa Dist- Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Siddharth Harsh, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl.PP
For the O.P. No.2	:	Mr.Rabindra Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

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

2. The appellants seek pre-arrest bail in connection with Kachhawa P.S. Case No. 84 of 2025 registered for the offence(s) punishable under Sections 126(2), 115(2), 109, 352, 351(2) and 3(5) of the BNS; Sections 3(i)(r) and 3(i)(s) of the SC/ST (POA) Act, 1989.

3. As per the allegations made in the FIR, the



appellants along with other accused assaulted the informant and and they also abused the informant by using his caste name.

4. Learned counsel appearing on behalf of the appellants submitted that the appellants are innocent and they have been falsely implicated in the present case. Learned counsel submitted that the present case reflects a clear violation of the safeguards and protections envisaged under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act of 1989”). Learned counsel submitted that at the relevant time the appellants were present at their residence when the informant allegedly arrived there and started abusing them. The appellants, in order to protect themselves, video-recorded the incidence, which subsequently prompted the informant to lodge the FIR on false and fabricated allegations. Learned counsel further submitted that the alleged place of occurrence is situated near the residence of the appellants and the informant, with a *mala fide* intention, has meticulously concocted a false criminal case against them. The allegation that the appellants, along with co-accused Naga Kahar (appellant no.1), assaulted the informant with a *lathi* on his head in public view is wholly unsustainable. The injury alleged to have been caused on the head of the



informant which has been recorded by the learned District Court as a simple abrasion. Learned counsel submitted that no abusive words referring to the caste of the informant were never used by the appellants, therefore, in absence of the essential ingredients constituting an offence under the Act of 1989 are not made out. On these grounds, the appellants, who have clean antecedent, seek to be released on pre-arrest bail.

5. *Per contra*, Mr. Rabindra Prasad Singh has tendered his appearance on behalf of O.P. No.2 and vehemently opposed the prayer for grant of bail. Learned counsel submitted that the informant has suffered substantial injury and humiliation on account of the acts allegedly committed by the appellants. He further submitted that the occurrence took place on 30.03.2025 at about 7:00 p.m., near the entrance of the appellants' residence, and the same was in a public view. According to the prosecution, all the accused persons actively participated in the commission of the alleged offence. In view of the nature of the allegations and the occurrence took place in public view, the appellants don't deserve to be released on pre-arrest bail.

6. Mr. Binay Krishna, learned Spl.PP appearing on behalf of the State vehemently opposed the prayer for grant of



bail.

7. Having heard the rival submissions made on behalf of the parties, as well as, upon perusal of the allegations made in the FIR, this Court finds that the alleged occurrence took place near the house of the appellants. The FIR contains general and omnibus allegations against all the accused persons, who admittedly belong to the same family, alleging that they abused the informant by taking his caste name. However, in the absence of any specific overt act attributed to any of the appellants and in the absence of clear particulars supporting the essential ingredients of the offence, the allegations do not *prima facie* appear to satisfy the statutory requirements under the Act of 1989. A reference of provision under Section 3(1)(r) and 3(1)(s) of the SC/ST Act has been made, 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. The term “any place within public view” initially came for consideration before the Apex Court in case of ***Swaran Singh & Ors. Vs. State through Standing Counsel & Anr.*** reported in ***(2008) 8 SCC 435***. In the case of ***Hitesh Verma Vs. State of Uttarakhand & Anr.*** reported in ***(2008) 8 SCC 435***,



the Apex Court had reiterated the legal position in paragraph no.14 which is as under :

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed.: This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] . The Court held as under : (SCC pp. 443-44, para 28) “28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the



expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

9. A reference in this regard can also be taken to a recent judgment passed in the case of ***Karuppudayar Vs. State Rep. By the Deputy Superintendent of Police, Lalgudi Tricy & Ors.*** arising out of ***Special Leave Petition (criminal) No.8778-8779 of 2024***), reported in ***2025 INSC 132***.

10. From the observation and explanations made by the Apex Court in the case of ***Swaran Singh (Supra)***, it transpires that the occurrence allegedly took place at the door of the appellants’ house. There is no specific assertion in the FIR that the said place was accessible to the general public or that any independent member of the public witnessed the occurrence. There is also no clear allegation that the veranda or entrance was visible to persons from a public road or lane so as to bring the alleged act within the ambit of “public view” as explained by the Apex Court. Considering the aforesaid facts and circumstances, in absence of specific and individual allegations satisfying the ingredients of Sections 3(1)(r) and 3(1)(s) of the Act of 1989, and further taking into account that the appellants have clean antecedents, this Court is of the view that



the appellants have *prima facie* made out a case to be released on pre-arrest bail.

12. The appellants, above named, are directed to be released on pre-arrest bail, in the event of their 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 Lalmania P.S. Case No. 66 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/482 of the BNSS.

13. Accordingly, the impugned order is set aside and the present appeal is allowed.

(Purnendu Singh, J)

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