

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4863 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- KOTWA District- East Champaran

Vikash Kumar Son of Madan Ray Resident of Village - Dipau, P.S. - Kotwa,
District - East Champaran

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sumitra Devi Wife of Late Nagendra Ram Resident of Village - Kotwa,
Ward No.7, P.S. - Kotwa, District - East Champaran

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3767 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- KOTWA District- East Champaran

Nitesh Kumar yadav son of RLalbabu Ray @ Lalbabu Ray R/o village -
Talwa, ps - kotwa , District -East champaran

... .. Appellant/s

Versus

1. The State of Bihar bihar
2. Sumitra Devi Wife of Late Nagendra Ram Village- Kotwa, ward no. 7, Ps-
Kotwa, Dist- East champaran

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 4863 of 2024)

For the Appellant/s : Mr. Abhishek Kumar, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

(In CRIMINAL APPEAL (SJ) No. 3767 of 2024)

For the Appellant/s : Mr. Prateek Tandon, Adv.

For the Respondent/s : Ms. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 5 13-07-2026 1. Heard learned counsel for the appellant and
learned Special P.P. for the State.
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 11.09.2024 in A.B.P. No. 3618 of 2024 passed by the learned Special Judge S.C./S.T. (POA) Act, East Champaran at Motihari in connection with Kotwa P.S. Case No. 61 of 2024 registered for the offences punishable under Sections 435, 354 and 34 of the Indian Penal Code as well as Sections 3(1)(i), 3(1)(r), 3(1)(a) and 3(2)(va) of the SC/ST Act.

3. Learned counsel for the appellant submits that appellant is a person with clean antecedent. It is next submitted that informant despite receiving notice chooses not to appear and contest. It is further submitted that informant alleges that she lives alone with her three daughters, next alleges that Nitesh called from his mobile no. 8863959484 at 8:35 PM on her mobile and wanted to talk to her daughter, but since informant had picked the phone, as such, Nitesh started talking inappropriately with the informant, next alleges that several calls came, but informant kept disconnecting the calls without picking, it is further alleged that on 09.03.2024, Nitesh again called at 8:35 PM, but she gave the mobile to her brother-in-law



Mithu, but Nitesh threatened that he will kill him and will put the house on fire and also abused him by taking caste name but Mithu recorded the call and also abused Nitesh, next alleges that on the next date at 2:00 AM, Nitesh came with Vikash and others and put the house on fire, hence family members woke up and tried to douse the fire, but in the fire household articles along with six goats, buffalo and a calf got burnt to death, next alleges that the accused persons wanted to kill her and her daughter, further even her father-in-law got burn injury.

4. Learned counsel for the appellant submits that appellant has been falsely implicated in the instant case by the informant. It is further submitted that from perusal of the allegations as alleged in the FIR, it would manifest that thrust of the allegation is against Nitesh and appellant is alleged to have accompanied him along with others and thereafter put the house of the informant on fire causing death of animals and father-in-law of the informant suffered burn injury, but then it is submitted that during course of investigation, the doctor opined that the injury suffered by the father-in-law of the informant was an old injury suffered about 28 days back. It is further submitted



that the date of occurrence is 09.03.2024 and FIR came to be instituted on 10.03.2024 and the doctor examined the father-in-law of the informant on 15.03.2024, as such, the injury suffered by the father-in-law of the informant as per the doctor was caused on 15.02.2024 i.e., much before the date of occurrence for which the instant FIR has been instituted. It is reiterated and submitted that informant specifically alleges that it was Nitesh who was after her daughter and was calling repeatedly and had abused her brother-in-law and threatened to put the house on fire, but since appellant is a friend of Nitesh, as such, came to be implicated with general and omnibus allegation. It is thus submitted that case of appellant is on a different footing from the case of Nitesh.

5. Learned Special P.P. for the State opposes the appeal but then is not in a position to rebut the submission of the learned counsel appearing on behalf of the appellant that thrust of the allegation is against Nitesh and it was Nitesh who had threatened Mithu of putting the house on fire. It is also submitted that if privilege of anticipatory bail is granted, the appellant may abscond, on which the learned counsel appearing on behalf of the



appellant submits that appellant will not abscond rather will cooperate in the investigation to prove his innocence.

6. After hearing the learned counsel for the parties, the order dated 11.09.2024 **is hereby set aside** and the appellant above-named, in the event of his arrest or surrender within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Trial Court where the case is pending/successor court in connection with Kotwa P.S. Case No. 61 of 2024 subject to the conditions as laid down under Section 482 (2) of the BNSS.

7. One of the bailors of the appellant shall be his father Madan Ray.

8. Accordingly, the appeal stands allowed.

CRIMINAL APPEAL (SJ) No. 3767 of 2024

1. Heard learned counsel for the appellant and learned Special P.P. for the State.

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 24.06.2024 in A.B.P. No. 2161 of 2024 passed by the learned Special Judge S.C./S.T. (POA) Act, East Champaran, Motihari in connection with Kotwas P.S. Case No. 61 of 2024 registered for the offences punishable under Sections 435, 354 and 34 of the Indian Penal Code and section 11 Animal Cruelty Act as well as Section 3(a)(va) of the SC/ST Act.

3. Learned counsel for the appellant submits that appellant submits that the instant appeal was tagged with Criminal Appeal (SJ) No. 4863 of 2024. It is further submitted that informant despite receiving notice chooses not to appear and contest. It is further submitted that appellant has antecedent of one case and the informant alleges that she lives alone with her three daughters, next alleges that Nitesh called from his mobile no. 8863959484 at 8:35 PM on her mobile and wanted to talk to her daughter, but since informant had picked the phone, as such, Nitesh started talking inappropriately with the informant, next alleges that several calls came, but informant kept disconnecting the calls without picking, it is further alleged that on 09.03.2024, Nitesh again called



at 8:35 PM, but she gave the mobile to her brother-in-law Mithu, but Nitesh threatened that he will kill him and will put the house on fire and also abused him by taking caste name but Mithu recorded the call and also abused Nitesh, next alleges that on the next date at 2:00 AM, Nitesh came with Vikash and others and put the house on fire, hence family members woke up and tried to douse the fire, but in the fire household articles along with six goats, buffalo and a calf got burnt to death, next alleges that the accused persons wanted to kill her and her daughter, further even her father-in-law got burn injury.

4. Learned counsel for the appellant submits that similarly situated co-accused Vikash had approached this Court seeking anticipatory bail by filing Criminal Appeal (SJ) No. 4863 of 2024 and the same came to be allowed after considering the case on merit and in detail, as such, based on parity, the learned counsel appearing on behalf of the appellant seeks anticipatory bail for the appellant.

5. Learned Special P.P. for the State opposes the appeal and submits that while granting the privilege of anticipatory bail to Vikash, the Court had considered the case on merit and in detail and while granting bail to



Vikash, it was recorded that thrust of the allegation is against Nitesh.

6. At this stage, the learned counsel appearing on behalf of the appellant submits that appellant has been falsely implicated in the instant case by the informant. It is next submitted that appellant on the date of occurrence was at Dharwad in Karnataka and was working with L&T company and in the Trial Court had annexed attendance register and gate pass to show that he was not present at the place of occurrence, on which the learned APP submits that it is a plea of *alibi* and plea of *alibi* is a weak plea. It is also submitted that there is a specific allegation against the appellant that he called on the mobile number of the informant for speaking to her daughter and when informant picked up the mobile phone, the appellant talked inappropriately with her and thereafter made several calls which the informant did not pick and ultimately on 09.03.2024, when appellant again called, the mobile was given to Mithu who recorded the call. It is also submitted that appellant has not even remotely taken a plea in the appeal that since he was in Karnataka, as such, his tower location of the mobile was not at the place



of occurrence on the date of occurrence. It is thus submitted that had the appellant been at Karnataka on the date of occurrence then definitely the said plea would have been taken.

7. Learned Spl. PP reiterates and submits that house of the informant was put on fire in which animals died and if the injury suffered by the father of the informant does not get corroborated by the report of the doctor that may be an embellishment, but then that itself does not discredit the entire prosecution case.

8. Considering the submission made by the learned Spl. PP, the Court is not inclined to extend the privilege of anticipatory bail to the appellant.

9. **Accordingly, the appeal stands rejected.**

(Satyavrat Verma, J)

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