

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5208 of 2024

Arising Out of PS. Case No.-483 Year-2023 Thana- KESARIA District- East Champaran

1. Vivek Kumar @ Prabhakar Singh S/o- Santosh Kumar Singh Resident of village- Kesariya Ps- Kesariya District- East Champaran
2. Vivek Singh @ Vivek Kumar S/o- Shalendra Singh Resident of village- Kesariya Ps- Kesariya District- East Champaran

... .. Appellants

Versus

1. The State of Bihar
2. Jyotik Ram D/o- Bhangiram Village- Kesariya Tola W.No-4, Ps-Kesariya Dist- East Champaran

... .. Respondents

Appearance :

For the Appellants : Mr. Abhishek Kumar, Advocate

For the Respondent-State: Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL ORDER

4 12-02-2026 Heard learned counsel for the appellants and learned Special Public Prosecutor appearing for the State. Though notice through S.H.O. concerned has been served upon respondent No.2, as appears from the report of the Superintendent of Police, East Champaran, Motihari, respondent no.2 has not chosen to appear in this case.

2. This appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been directed against the order dated 12.09.2024 passed by learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari, in A.B.P. No. 4006 of 2024 arising out of Kesariya P.S. Case No. 483 of 2023, registered under



Sections 341, 323, 379, 437, 324, 384, 385, 504, 34 of the Indian Penal Code read with Section 3(1)(i)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for grant of anticipatory bail of the appellants has been rejected.

3. As per the prosecution case, the informant, namely, Jyotik Ram, alleged that on 04.03.2023 at 06:00 PM, the appellants along with other named accused persons were taking one truck from her cultivated field, on being objected, all of them started abusing by taking her caste name and they also assaulted her by fists and slaps and smeared diesel on her face causing injury to her. It is further alleged that co-accused Santosh Kumar Singh snatched her gold chain worth Rs.50,000/-. On *hulla* villagers came and intervened. It is further alleged that on day after the occurrence the accused persons variously armed with *lathi* and *danda* came to the door of the informant and abused her by taking her caste name and threatened her to kill. It is also alleged that the accused persons are repeatedly threatening her and asking for ransom and saying that she will be ousted from the village.

4. Learned counsel appearing for the appellants submits that the appellants, who are of clean antecedent, are



innocent and have not committed any offence. He further submits that it appears from the F.I.R. itself that but for general and omnibus allegation, nothing specific has been alleged against these appellants. Although there is allegation of assault in the F.I.R. against the appellants, but as appears from the case diary, which is on record, no injury report was produced to substantiate the said allegation. Learned counsel for the appellants submits that due to land dispute this false case has been lodged against the appellants. As regards allegation of abuse by taking caste name attracting the rigours of SC & ST Act is concerned, it is not committed in a public place nor any person has been named to be present at the place of occurrence when the alleged offence of abuse was being committed. He further submits that no case, as alleged in the F.I.R, attracting rigours of SC & ST Act is made out against the appellants. Hence, the impugned order may be set aside and the appellants may be granted the privilege of anticipatory bail.

5. Learned Special Public Prosecutor has vehemently opposed the prayer for grant of anticipatory bail to the appellants and submit that there is a complete embargo under Section 18 of SC/ST Act, so as to not to entertain the anticipatory bail application. The appellants are musclemen and



they create disturbance in the society.

6. Considering the entire facts and circumstances of the case and also the fact that the appellants bear clean antecedent coupled with the fact that the allegation does not come under the purview of SC/ST Act, let the above named appellants, in the event of their arrest/surrender within a period of six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari, in connection with Kesariya P.S. Case No. 483 of 2023, subject to the conditions laid down under Section 482(2) of the B.N.S.S/Section 438(2) of the Cr.P.C..

7. Accordingly, this appeal is allowed and the impugned order dated 12.09.2024 rejecting the prayer for grant of anticipatory bail to the appellants is set aside.

(Praveen Kumar, J)

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