

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4709 of 2025

Arising Out of PS. Case No.-139 Year-2025 Thana- MEHANDIGANJ District- Patna

1. Ganesh Kumar @ Feku Amarnath Mahto Resident of Ranipur Neemtal PS- Mehdiganj PO- Jhauganj Patna City District- Patna Bihar
2. Subham Kumar @ Sujal S/o- Ranjan Kumar Resident of Ranipur Neemtal PS- Mehdiganj PO- Jhauganj Patna City District- Patna Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanti Kumari W/o- Ajay Kumar Resident of Ranipur Neemtal Chamartoli, PS- Mehdiganj PO- Jhauganj Patna City District- Patna Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Aryan Sinha, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 16-04-2026 Heard learned counsel for the appellants and
learned Special Public Prosecutor for the State.

2. The present Cr. Appeal (SJ) application has been filed for seeking grant of bail and setting aside the order dated 09.10.2025 in A.B.P. No. 3983 of 2025 arising out of Mehdiganj P.S. Case No. 139 of 2025, passed by the Exclusive Special Judge, S.C./S.T. Act, Civil Court, Patna, for the offence punishable under Sections 126(2), 115(2), 74, 352, 351(2), 351(3) & 3(5) of the Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS, 2023”) and under Sections 3(1) (r), 3(1) (s) & 3(1) (w) of the SC/ST (POA) Act.



3. As per the prosecution, the informant has made an allegation that at 07:30 all the accused persons molested and assaulted her and further threatened to assault and rape her by disrobing her and kill her. The accused persons also pelted stones and threatened to kill both of her sons. It has further been alleged that both of the accused persons treated her barbarically.

4. Learned counsel for the appellants submits that the appellants are innocent and have committed no offence. Counsel submits that the appellants have been falsely implicated in the present case, as no such incident took place. Counsel further submits that the sons of the informant have a criminal background and had demanded unlawful monetary payment from the appellants, and upon their refusal, the present criminal case has been lodged only to exert pressure and settle personal scores.

5. Counsel further submits that upon a bare reading of the FIR, it is clear that the specific time of occurrence has not been mentioned, i.e., whether 07:30 refers to morning or evening. Counsel further submits that there are no ingredients of Sections 3(1)(r), 3(1)(s) and 3(1)(w)(i) of the SC/ST Act. Counsel further submits that it is nowhere mentioned in the FIR as to which of the accused persons allegedly molested or



assaulted the informant, or asked her to remove her clothes with an intent to commit rape, or threatened to rape her by disrobing her.

6. Counsel further submits that for completion of the offence under Section 3(1)(w)(i) of the SC/ST Act, it is necessary that the accused must have knowledge that the woman belongs to a Scheduled Caste and acted with such knowledge, which is lacking in the FIR. Counsel further submits that for the applicability of Sections 3(1)(r) and 3(1)(s) of the SC/ST Act, occurrence in a public place is essential, which is also lacking in the present case. Counsel further submits that both parties are residents of the same village, and although the occurrence is alleged to have taken place on 16.08.2025, the FIR has been lodged on 17.08.2025, without any plausible explanation.

7. Learned Special Public Prosecutor for the State opposes the prayer for bail of the appellants and submits that although Sections 3(1)(r) and 3(1)(s) of the S.C./S.T. Act are not attracted, Section 3(1)(w)(i) of the SC/ST Act is made out, as there is an allegation of molestation.

8. Upon perusal of Section 3(1) (w) (i) of the SC/ST Act, it transpires to this Court that intentionally touches a



woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, and this knowledge is one of the most important ingredients for completion of the said offence.

9. In the present facts and circumstances of this case, let the appellants named above be granted bail, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) each as mentioned in Section 2(1)(d) of the B.N.S.S., 2023 to the satisfaction of Exclusive Special Judge, S.C./S.T. Act, Civil Court, Patna, in connection with A.B.P. No. 3983 of 2025 arising out of Mehdiganj P.S. Case No. 139 of 2025, subject to the conditions as laid down U/s 480(3) of the B.N.S.S., 2023 with other following conditions:-

(i) one of the bailor should be the family member of the appellants who shall provide official document to show his bona fide;

(ii) the appellants shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

10. Accordingly, the order dated 09.10.2025 in A.B.P. No. 3983 of 2025 arising out of Mehdiganj P.S. Case No. 139 of



2025, passed by the Exclusive Special Judge, S.C./S.T. Act, Civil Court, Patna, is hereby set aside, and the present anticipatory bail application stands allowed.

(Dr. Anshuman, J.)

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