

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2808 of 2021**

Arising Out of PS. Case No.-515 Year-2019 Thana- MASHRAK District- Saran

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1. UMA SHANKAR YADAV Son of Dina Nath Rai Resident of At - Mashrak, Dakshin Tola, P.O. and P.S.- Mashrakh, District - Saran at Chhapra
 2. Om Prakash Yadav Son of Dina Nath Rai Resident of At - Mashrak, Dakshin Tola, P.O. and P.S.- Mashrakh, District - Saran at Chhapra

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Yashraj Bardhan
For the Respondent/s	:	Mr. Sadanand Paswan
For the Informant	:	Mr. Kumar Samarjeet Singh

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 22-07-2021 Heard the learned counsel for the appellants and

the learned Special Public Prosecutor for the State.

This appeal is directed against the order dated 15.04.2021 passed by the learned ADJ-I-cum-Special Judge, SC/ST (POA), Act, Saran at Chapra in connection with Mashrakh P.S. Case No. 515/2019, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences under Sections 341, 323, 379, 354, 504 and 506/34 of the Indian Penal Code, Section 27 of the Arms Act and under Section 3(1)(R) of SC/ST (POA) Act has been rejected.



The accusation in the First Information Report is that the informant and her mother were assaulted, abused and attempted to be molested by the appellants when they had visited the shop of the appellants for purchasing some commodities.

Learned counsel for the appellants has submitted that two cases have been lodged against them prior to the subject F.I.R. One such case was lodged in the year 2015 by the sister of the informant. That case arose out of a complaint and the appellants are on bail in that case. The other case has been lodged by the informant against the appellants in the year 2019 under Section 420 and 406 along with other sections of the Indian Penal Code in which appellants are on police bail. The mother of the appellants has also filed a case that the subject F.I.R. has been instituted for vindictive purposes. When the appellants could not be arrested in the case which has been lodged by the informant in the year 2019, this strategy has been adopted to anyhow frame the appellants in another case of this kind. The accusation under the SC/ST (POA) Act, it has been



urged, has been attempted to be invoked only for adding seriousness to the offence and preventing the appellants from taking advantage of beneficial provisions of section 438 of the Code of Criminal Procedure. The reason for doubting the prosecution case is that there was no necessity of the informant of visiting the shop of the appellants with whom litigations are pending from before.

Mr. Kumar Samarjeet Singh, learned Advocate for the informant however submits that the background facts would enure in favour of the informant rather than the appellants.

After having heard the learned counsel for the parties, it appears that there could be a possibility of false implication by the informant. What really catches the attention of this Court that when a case of rape in the year 2015 and a case under Section 420 lodged by the informant in the year 2019 was pending before a competent court, there was no reason for the informant to have visited the shop of the appellant for the purposes of purchasing commodities. This is quite in consonance with the case



lodged by the mother of the appellants against the informant about which reference has been made in the memo of appeal.

For the aforesaid reasons, order dated 15.04.2021 passed by the learned ADJ-I-cum-Special Judge, SC/ST (POA), Act, Saran at Chapra.

The appeal stands allowed.

The appellants, above named, are directed to be released on bail in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt /production of a copy of this order on his furnishing bail bonds in the sum of Rs. 10,000 (Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of learned ADJ-I-cum-Special Judge, SC/ST (POA), Act, Saran at Chapra in connection with Mashrakh P.S. Case No. 515/2019.

(Ashutosh Kumar, J)

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