

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3309 of 2021**

Arising Out of PS. Case No.-28 Year-2018 Thana- SC/ST District- Rohtas

1. PUSHPA DEVI W/o- ASHOK KUMAR SINGH Resident of Village- Kulhadiyaa, P.S.- Kailwar, District- Bhojpur (Ara) At Present- Railway Quarter No.168B Dehri, P.S.- Dalmia Nagar, District- Rohtas.
2. ASHOK KUMAR SINGH @ ASHOK KUMAR S/o- LATE RAM GOVIND SINGH Resident of Village- Kulhadiyaa, P.S.- Kailwar, District- Bhojpur (Ara) At Present- Railway Quarter No.168B Dehri, P.S.- Dalmia Nagar, District- Rohtas.
3. PRATEEK KUMAR @ KUMAR RITIK S/o- ASHOK KUMAR SINGH Resident of Village- Kulhadiyaa, P.S.- Kailwar, District- Bhojpur (Ara) At Present- Railway Quarter No.168B Dehri, P.S.- Dalmia Nagar, District- Rohtas.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Vaishnavi Singh, Advocate Mr. Shivam, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER**

2 07-09-2021 Heard Ms. Vaishnavi Singh, learned counsel for the appellants and Mr. Sadanand Paswan, learned Spl. PP for the State.

The appellants have challenged the order dated 14.07.2021 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST (POA) Act, Rohtas at Sasaram in SC/ST Dehri P.S. Case No. 28 of 2018 dated 17.03.2018, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 341, 323, 379, 504



and 506 of the Indian Penal Code and Sections 3(i)(r)(s) (w)(i)(ii) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The accusation in the FIR is of the appellants having abused, assaulted and demeaned the members of the prosecution party.

Learned counsel for the appellants has submitted that an absolutely false case has been lodged against them in retaliation to a case lodged by appellant no. 2 against Rajesh Kumar, Surendra Prasad and Babban Paswan *vide* Dalmianagar P.S. Case No. 1073 of 2017 dated 27.12.2017 under Sections 457 and 380 of the Indian Penal Code. Surendra Prasad, one of the accused persons of this case referred to above is the husband of the informant of the present case. The other accused persons are the witnesses in the subject FIR.

No sooner, the accused persons of the case lodged by appellant no. 2 received notice, they have chosen to file the present case with an absolutely false accusation. The falsity of the case would appear from the fact that the occurrence is said to have allegedly taken place on 14.01.2018 but the last of the incident reported is of 16.03.2018. The FIR in this regard has been lodged on 17.03.2018 but it has seen the light of the day only on 19.03.2018.



Apart from this, it has been submitted that the accusation prima facie was found to be false during the investigation and therefore the appellants were not sent up for trial. However, differing with the police report, cognizance has been taken by the learned Special Judge vide order dated 24.03.2021.

An informatory petition also has been filed by appellant no. 2 against the husband of the informant and others apprehending reprisal from their side. The appellant no. 2 at the relevant time was working in the Indian Railways. In support of the aforesaid contention/alibi, the attendance register for the month of January, 2018 has been brought on record.

The appellant no. 3 is an Assistant Professor in a college at Aurangabad and on the date of occurrence, he was on his duty in the college. The principal of the aforesaid college has also certified that the appellant no. 3 was present in the college premises on the date of the occurrence.

Learned counsel for the appellants has also drawn the attention of this Court to another case of similar nature lodged by the informant against another accused person thereby indicating that the informant is in the habit of filing such false cases, taking advantage of her special status.



Considering the aforementioned facts, the order dated 14.07.2021 is set aside.

The appeal stands allowed.

On the appellants surrendering before the court below within a period of eight weeks, they shall be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge-cum-Special Judge, SC/ST Act, Rohtas in SC/ST Dehri P.S. Case No. 28 of 2018.

(Ashutosh Kumar, J)

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