

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.397 of 2016

Arising out of P.S.Case No. -87 Year- 2015 Thana -TATARPUR (UNIVERSITY) District-
BHAGALPUR

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Bimal Mahto @ Lohwa, s/o late Tarni Mahto, resident of village- Maheshamunda,
Police Station- Kahalgaon, District- Bhagalpur.

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant : Mr. Ajay Mukherjee, Advocate.

For the State : Mr. Z. Hoda, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-10-2016

Heard learned counsel for the appellant and learned
counsel for the State.

2. This appeal is directed against the order dated
16.4.2016 passed by the learned 3rd Additional Sessions Judge,
Bhagalpur, in Cr. Appeal No. 27 of 2016 whereby the application for
bail preferred by the appellant under Section 389 (1) of the Code of
Criminal Procedure, has been rejected.

3. The appellant, a convict under Section 25 (1-B) (a)
and 26 of the Arms Act, has been sentenced to undergo rigorous
imprisonment for two years for each of the offences vide Judgment
and order of sentence dated 12th February, 2016 passed by the Chief
Judicial Magistrate, Bhagalpur.

4. The appellate court has admitted appeal and has

refused to suspend the sentence to the appellant during pendency of the appeal vide impugned order dated 16.4.2016.

5. Against the aforesaid order dated 16.4.2016, the instant application under Section 389 (2) of the Code of Criminal Procedure has been filed. It would appear from the record that one country made loaded pistol and a live cartridge were recovered from possession of the appellant in course of trial. The witnesses have supported the allegations made in the First Information report.

6. In view of pendency of the appeal before the Appellate Court, I am not inclined to entertain the present application under Section 389 (2) of the Code of Criminal Procedure.

7. Accordingly, the application is dismissed.

8. However, the appellate court i.e. the learned 3rd Additional Sessions Judge, Begusarai, is directed to hear the appeal and dispose it of within a period of four months from the date of receipt/production of a copy of the present order.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A.
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