

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1006 of 2016

Arising Out of PS.Case No. -50 Year- 2016 Thana -MUSAHRI District- MUZAFFARPUR

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Santosh Kumar @ Santasho Thakur son of late Satrugan Thakur resident of village
Dumri P.S. Musahari Dist. Muzaffarpur

.... Appellant/s

Versus

State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 19-12-2016

1. Heard learned counsel for the appellant as well as learned Special P.P
for the State

2. This criminal appeal has been preferred against the order dated
31.5.2016 passed by Special Judge, Muzaffarpur in Mushahri P.S. case no.
50/2016 by which he refused to enlarge the appellant on bail.

3. Informant lodged the present case on 7.4.2016 against the appellant
to this effect that on 6.4.2016 at about 6.30 p.m., appellant made attempt to
commit rape on her minor daughter and when the informant and others made
protest appellant abused him by calling his caste name.

4. Learned counsel appearing for the appellant challenged the
impugned order submitting that much prior to the institution of the present case,
i.e. on 30.3.2016 appellant had given a petition to officer-in-charge of Mushahri
police station against the informant as well as his family members including
victim girl of this case for illegally cutting tree stood on the ridge of a **Bandh** and
that is the reason of false implication of the appellant in the present case but the



learned court below did not take notice of the aforesaid fact while rejecting bail application of the appellant.

5. Having heard the aforesaid contentions I went through annexure 2 series as well as the impugned order. Annexure 2 series to this petition reveals that much prior to institution of the present case, appellant had filed petition before police as well as circle officer, Mushahri levelling allegation against informant and his other family members but the aforesaid fact was not taken in notice by learned Special Judge while rejecting bail application of the appellant though the aforesaid point had been raised on behalf of the appellant before the court below at the time of passing order dated 31.5.2016.

6. Therefore, in the aforesaid circumstance, in my view, impugned order is liable to be set aside and accordingly, this criminal appeal is allowed and the impugned order 31.5.2016 passed by Special Judge, Muzaffarpur in Mushahri P.S. case no. 50/2016 is, hereby, set aside.

7. In the result, appellant above named is directed to be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Special Judge, Muzaffarpur in Mushshari P.S. case no. 50/2016.

(Hemant Kumar Srivastava, J)

Shahid/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2016
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