

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.631 of 2017

Arising Out of PS.Case No. -300 Year- 2015 Thana -WARSALIGANJ District- NAWADA

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1. Sanjay Mahto @ Munna Mahto, S/o Ganga Mahto, R/o village - Mirchak, P.S.
Warisaliganj, District - Nawada

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Deepak Kumar, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-4

Mr. Amit Kumar Jha, AC to AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 28-06-2017

This is a reference made by a learned Single Judge of
this Court and in para 12 the following questions have been referred
for consideration:

- (a) Whether a petition under Section 389(2) of Code
of Criminal Procedure could be perceived as an
appeal against an order passed under Section
389(1) of Code of Criminal Procedure by the
lower Appellate Court and be registered under
nomenclature of “Criminal Appeal”.
- (b) If so, what kind of procedure is to be followed



during disposal thereof.”

While considering the matter, this Division Bench on 8.5.2017 had granted bail to the appellant herein. The appellant shall continue to remain on bail on the same terms and conditions as have been indicated by this Court in the order dated 8.5.2017 till conclusion of the appellate proceeding.

As far as the question referred to us for consideration is concerned, we find that the question is only with regard to nomenclature of an application or a petition or an appeal filed under Section-389(2) Cr.P.C. in the High Court and on going through a detailed order passed by a learned Single Judge of this Court on 4.8.2015 in Cr. Misc. No.31202 of 2015, we are of the considered view that the matter pertains to nomenclature of the cases of the nature filed and it would be appropriate to refer the matter to the Rule Making Committee of the High Court to consider the question and take a decision with regard to nomenclature of such cases. For the said purpose, interference into the matter in the judicial side is not called for.

This appeal stands disposed of with the aforesaid confirming the bail granted to the appellant on 8.5.2017 and it is further directed that till the Rule Making Committee takes a decision



in the matter, all such applications as are filed under Section 389(2) Cr.P.C. shall continue to be classified as a criminal appeal and listed before an appropriate Bench in accordance to the order already passed on 8.5.2017 in Criminal Appeal.

With the aforesaid, this appeal is disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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