

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.739 of 2017

Arising Out of PS.Case No. -378 Year- 2015 Thana -KISHANGANJ District- KISANGANJ

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1. Shamshad Alam,
2. Khurshid Alam, Both sons of Md. Subhan, Resident of Village-
Dhekabhinja, Rampur Ward NO. 31, P.S. and District- Kishanganj.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 23-05-2017 Heard the parties.

This appeal has been filed for setting aside order dated 2.2.2017 passed in Special Case No.41 of 2016 arising out of Kishanganj P.S.Case No.378 of 2015, registered for the offences under Sections 313, 304 & 420 of the Indian Penal Code and Section 3(1)(x) of S.C./S.T. (Prevention of Atrocities) Act by the Special Judge, Kishanganj and also for grant of bail.

Allegation against the appellants is that without having valid license they have treated daughter of the informant, who is pregnant and during the course of treatment due to excess bleeding, she died and as such, this case under Sections 313, 304 & 420 of the Indian Penal Code and Section 3(1)(x) of S.C./S.T. (Prevention of Atrocities) Act has been registered against the



appellants.

It is submitted on behalf of the appellants that they have been falsely implicated in this case at the behest of one Indradeo Paswan as the informant is Maid of Indradeo Paswan and the appellants have dispute with respect of sale of land of '*Kabristan*' with Indradeo Paswan and Indradeo Paswan had threatened the appellants of dire consequences. It is also submitted that in the supervision note, the Superintendent of Police has doubted the aforesaid fact, which will also appear from Para 38, 41 and 69 of the case diary as well as in the supervision note.

Heard learned Special P.P., who has stated that the prosecution case has found support from Para 6, 7, 8 & 9 of the case diary as well as the postmortem report also, in which it has clearly been shown that she was treated earlier. The appellants are in custody since 2.2.2017.

Having heard both sides and considering allegation, at this stage, I am not inclined to grant bail to appellant no.1 (Shamshad Alam) and the learned Special Court is directed to expedite commitment of the case and once the charges are framed against appellant no.1, he may renew his prayer for bail.

Hence, prayer of appellant no.1 (Shamshad Alam) is rejected.



So far appellant no.2 (Khurshid Alam) is concerned, there is no allegation against him that he has treated daughter of the informant, as such, let appellant no.2 (Khurshid Alam), be enlarged on bail on furnishing bail bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of C.J.M., Kishanganj in connection with Special Case No.41 of 2016 arising out of Kishanganj P.S.Case No.378 of 2015, after setting aside order dated 2.2.2017 passed in Special Case No.41 of 2016 arising out of Kishanganj P.S.Case No.378 of 2015 by the learned C.J.M., Kishanganj.

With the aforesaid observation, this appeal is disposed of.

(Vinod Kumar Sinha, J)

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