

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.835 of 2020**

Arising Out of PS. Case No.-38 Year-2018 Thana- BABUBARHI District- Madhubani

MD. MUBARAK Son of Abdul Baki Resident of Village - Baunsi, P.S.-
Babubarhi, Distt - Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Md. Helal Ahmad, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 08-09-2020 Heard learned counsel for the appellant and Mr.
Sadanand Paswan, learned Special P.P. for the State.

Appellant, in the present case, is seeking setting aside the order dated 20.11.2019 passed in G.R. No. 304/2018, arising out of Babubarhi P.S. Case No. 38/2018 dated 18.02.2018, lodged under Section 363 of the Indian Penal Code and subsequently added under Section 366, 302 and 201/34 of the Indian Penal Code and Section 3(2)(Va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, by learned 1st Additional Sessions Judge, Madhubani.

Learned counsel for the appellant submits that as per prosecution report the 25 years old son of the informant went missing on 13.02.2018 and he could not be located despite search. In course of investigation the name of this appellant and



his wife Khatiza Khatoon came within the purview of investigation. This appellant made a confessional statement for the first time on 23.02.2018 saying that the deceased had developed an illicit relationship with his wife Khatiza and for that reason the appellant and his wife made a plan to kill him, pursuant thereof the victim was killed. The deceased had been put down by this appellant and then his neck was slitted and injuries were also found on the abdomen. Learned counsel submits that save and except the confessional statement which has been recorded twice by police there is no material to connect this appellant and the confessional statement being not admissible in evidence the appellant who is languishing in jail since 24.02.2018 deserves bail.

It is further submitted that in the case of Khatiza Khatoon, a learned coordinate Bench of this court had while rejecting her prayer for regular bail in Cr. Misc. No. 59184/2018 made an observation that if the trial is not concluded within a period of eight months petitioner will be at liberty to renew the prayer for bail. Now it is submitted that the trial has not been concluded within the given period.

On the other hand, Mr. Sadanand Paswan, learned Special Public Prosecutor for the State submits that the



appellant has made confessional statement which is also supported by the injuries found on the body of the deceased. It is further submitted that ten prosecution witnesses have already been examined in this case and for the remaining witnesses steps have been taken to get their appearance. It is thus submitted that at this stage the appellant does not deserve privilege of bail.

Having regard to the facts and circumstances of the case and the material placed before this court from which this Court has noticed that the confessional statement of this appellant made twice are duly corroborated by the injury reports and this has been noticed by the learned coordinate Bench also while rejecting the prayer for regular bail of the wife of this appellant, this Court having also noticed that ten prosecution witnesses have already been examined and at this stage if the appellant is released on bail the trial is likely to be prolonged, is not inclined to grant privilege of regular bail to the appellant.

Prayer for bail of the appellant is, thus, refused.

This Court has however while perusing the impugned order of the learned court below noticed that the informant is not putting appearance in course of trial. The information received from the learned trial court also shows that the



prosecution has been directed to produce the remaining witnesses and the matter is now fixed for evidence of the I.O. Sri Ashok Kumar.

The trial court is directed to expedite the trial, conduct it on day to day basis, do not grant unnecessary adjournments unless a very strong reasons for adjournment is made out before the learned trial court and in case the informant or any other prosecution witnesses is not appearing on the date, let coercive action be taken to get their production. The trial court is directed to conclude the trial preferably within six months from the date of start of normal functioning of the court. Appellant will be at liberty to renew the prayer for bail after six months from the date of start of normal functioning of the Court, if the trial is not concluded for the reason solely attributable to the prosecution.

This application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

