

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1517 of 2020

Arising Out of PS. Case No.-83 Year-2020 Thana- RAJAON District- Banka

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Kunal Kumar Son of Vijay Prasad Singh Resident of Village- Jagdishpur
(Katiya), Police Station- Rajoun, District- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Mukherjee

For the Respondent/s : Mr. A.G.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-09-2020 The matter has been taken up through virtual

Court proceeding.

Since the Court proceeding is non-functional in
physical mode due to present pandemic COVID-19, the
matter is listed with defects.

Learned counsel for the appellant undertakes
to remove the defects within three weeks of resumption
of Court proceedings.

In case of non removal of the defects within
undertaken period, the office shall place the matter
before the bench.

Heard learned counsel for the appellant and
learned Special P.P. for the respondent-State.



The present appeal has been preferred on behalf of the appellant for setting aside the order dated 23.05.2020 passed by learned Additional Sessions Judge-I, Banka whereby the appellant's prayer for bail in connection with G.R. Case No. 27 of 2020, arising out of Rajoun P.S. Case No. 83 of 2020, registered for the offences punishable under Sections 307/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s), 2(ii) of SC/ST (Prevention of Atrocities) Act has been rejected.

The prosecution case, as per the fardbeyan of Nilam Devi, recorded by S.I Sunil Kumar, S.H.O, Rajoun Police Station on 10.03.2020 at 4:40 P.M. in P.H.C, Rajaun is to the effect that on 10.03.2020 at 3:00 P.M. when the brother of the informant was coming home, on the way, four persons riding on a motorcycle in inebriated condition assaulted the brother of the informant and abused him by calling his caste name. The brother of the informant thereafter came



home and disclosed about the incident and named the four persons including the appellant and when the informant and her father made protest before the family members of all the accused persons, in the meantime, all the accused persons including the appellant came in the house of the informant and started assaulting and abusing the family members of the informant. It is specifically alleged against this appellant that he resorted to fire from the pistol which did not hit but he again resorted to second firing which hit sister of the informant, Lalita Devi causing injury on her right finger.

It is submitted by learned counsel for the appellant that accusation has been levelled in the background of a petty dispute. The informant has retracted from the initial version and filed a petition to that effect on 20.05.2020 before learned Court below which has been annexed as Annexure-3. Moreover, the investigation has already been concluded and the



appellant is not having any criminal antecedent, a statement to that effect has been made in para 3 of the petition.

The appellant is in custody since 16.04.2020.

Learned A.P.P. submits that accusation of firing is specific against the appellant.

Considering the fact that investigation has already been concluded and the informant has retracted from the initial version, coupled with the fact that the appellant is not having any criminal antecedent, the order dated 23.05.2020 passed by learned Additional Sessions Judge-I, Banka is, hereby, set aside and the appellant above named is directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned Additional Sessions Judge, 1, Banka in connection with G.R. Case No. 27 of 2020, arising out of Rajoun P.S. Case No. 83 of 2020.

However, in view of the present pandemic



COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Additional Sessions Judge, 1, Banka in connection with G.R. Case No. 27 of 2020, arising out of Rajoun P.S. Case No. 83 of 2020.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

If the appellant defaults for two consecutive occasions during trial, learned Trial Court will be at



liberty to cancel the bail bonds of the appellant.

Accordingly, the appeal is allowed.

(Dinesh Kumar Singh, J)

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