

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1472 of 2020**

Arising Out of PS. Case No.-361 Year-2016 Thana- RAJAON District- Banka

MD. SETHU @ MD. TAMUJUDDIN S/o Late Domi @ Mustafa Kamal
Resident of Village- Harnabujurg, P.S.- Rajoun, Distt- Banka.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjan Kumar Jha

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 18-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
appeal has been listed with defects.

Learned counsel for the appellant undertakes to
remove the defect(s) within a period of four week of resumption
of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.



Heard learned counsel for the appellant and the State.

The present appeal has been preferred against the order dated 04.06.2020, passed by learned Additional Sessions Judge-1, Banka, Bhagalpur in Rajoun P.S. Case No. 361 of 2016, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 29.05.2020, in a case registered for the offences punishable under Sections 376/511 of the IPC and Sections 3(i)(x) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the written report of Kanchan Devi, submitted to the S.H.O., Rajoun Police Station is to the effect that on 21.10.2016 at about 6 P.M., the informant went to the public toilet, in the meantime, the appellant caught hold of the hand of the informant and tried to drag her towards the river side, but on alarm being raised, the appellant escaped from the scene.

Learned counsel for the appellant submits that for the alleged occurrence of 22.10.2016 at about 6 P.M., the FIR has been lodged on 23.10.2016 at about 6.M. Though the case was registered under Sections 376/511 of the IPC, but the chargesheet has been submitted under Section 354B of the IPC



and Section 3(i)(x) of the SC/ST (Prevention of Atrocities) Act. It is further submitted that in fact the husband and father-in-law of the informant brutally assaulted the appellant, as a result, he received grievous injuries, for which, the appellant lodged Rajaun P.S. Case No. 368 of 2016 with accusation under Section 323, 324, 307 and 379/34 of the IPC on 23.10.2016 at about 3.10 AM, when as a counter blast to that case, the present FIR has been lodged on the same day at 6 AM. Moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellant is not having any criminal antecedent.

Learned APP for the State submits that the appellant is named in the FIR with specific accusation.

Considering a case lodged by the appellant's side is at earlier point of time, period under custody and fact that the investigation has already been concluded, coupled with statement made in paragraph no.3 of the petition to the effect that the appellant is not having any criminal antecedent, the order dated 04.06.2020, passed by learned Additional Sessions Judge-1, Banka, Bhagalpur in Rajoun P.S. Case No. 361 of 2016 is hereby quashed and the appellant is directed to be released on bail for the present provisionally for a period of three months on



furnishing one surety to the satisfaction of the learned Additional Sessions Judge-1, Banka, Bhagalpur, in connection with Rajoun P.S. Case No. 361 of 2016.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on 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 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.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Additional Sessions Judge-1, Banka, Bhagalpur, in connection with Rajoun P.S. Case No. 361 of 2016.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.



Accordingly, the present appeal is allowed and
disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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