

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5007 of 2019**

Arising Out of PS. Case No.-125 Year-2019 Thana- SAHEBPUR KAMAL District-
Begusarai

=====

BABU SAHEB YADAV @ BABU S. KUMAR Son of Sikandar Yadav
Resident of Village - Kharhat, P.S.- Sahebpur Kamal, District - Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Vinod Gautam
For the Respondent/s : Mr.Usha Kumari 1

=====

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

5 01-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the appellant. However, none appears on behalf of the informant.

The present appeal has been preferred on behalf of the appellant for setting aside the order dated 28.6.2019 passed by the learned ^{2nd} Additional Sessions Judge-cum-Special Judge, Excise Act, Begusarai in Sahebpur Kamal P.S Case No. 125 of 2019 registered for the offences punishable under Sections 457,354(B) and 504/324 of the IPC and Sections 3(i)(r)(s) of The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 37(b)(c) of the Bihar Prohibition and Excised Act, 2016 as amended by Amendment



Act 8 of 2018, whereby the appellant's prayer for bail in the aforementioned case has been rejected. The consequential prayer is for grant of bail.

The prosecution case, as per the written report of Rinki Kumari submitted to the SHO, Sahebpur Kamal Police Station, is to the effect that when the informant was sleeping in the night intervening between 6/7.5.2019, at about 1.30 hours, the appellant entered into the room breaking open the asbestos roof top of the informant's house, abused her and tried to outrage the modesty of the informant. On alarm being raised by the elder brother of the husband of the informant, neighbours reached on the spot and the appellant was caught. Subsequently, the appellant was handed over to the police.

It is submitted by learned counsel for the appellant that in the background of previous enmity, the accusation has been levelled and the petitioner has maliciously been handed over to the police. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded.

Mr. Uma Shankar Singh, learned APP submits that there is specific accusation against the appellant. However, the investigation has already been concluded.

Considering the fact that the investigation has already



concluded, statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent and the fact that the petitioner has remained in custody for about one year, the order dated 28.6.2019 passed by the learned ^{2nd} Additional Sessions Judge-cum-Special Judge, Excise Act, Begusarai in Sahebpur Kamal P.S Case No. 125 of 2019 is set aside and the appellant above named is directed to be released on provisional bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned ^{2nd} Additional Sessions Judge-cum-Special Judge, Excise Act, Begusarai in the aforementioned case.

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 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 of the like amount each to the satisfaction of the learned ^{2nd} Additional Sessions Judge-cum-Special Judge, Excise



Act, Begusarai in connection with Sahebpur Kamal P.S Case
No. 125 of 2019 including one surety given at the time of
provisional bail.

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

Accordingly, the appeal is allowed.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

