

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2173 of 2020**

Arising Out of PS. Case No.-60 Year-2019 Thana- RAJAON District- Banka

MAKESHWSAR MANDAL, Son of Prasadi Mandal, Resident of Village-
Tekani, Police Station- Rajoun, District- Banka.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Praveen Kumar, Advocate

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

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

3 04-08-2021 Learned counsel for the appellant undertakes to
remove all the defects as pointed out by office within four
weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and Mr.
Sadnanand Paswan, learned Special P.P. for the State.

This is the second attempt of the appellant to obtain
bail in the present case who is seeking set aside the order dated
07.05.2019 passed by learned Additional Sessions Judge-I,
Banka in connection with Rajoun P.S. Case No. 60 of 2019
(G.R. No. 17 of 2019) registered for the offences punishable
under Sections 363, 365, 323, 354, 379, 34 of the Indian Penal
Code and Sections 3(1)(w) of the Scheduled Castes and
Scheduled Tribes Act and Section 27 of the Arms Act whereby

and whereunder his prayer for regular bail was rejected.

Learned counsel for the appellant submits that earlier while rejecting the prayer for bail of the appellant, this Court has observed that “in case any fresh material comes in the case registered with Basantrai Police Station, the appellant will have the liberty to renew his prayer for bail.”

Learned counsel submits that the Basantrai Police Station case has been investigated and in course of investigation the husband of the deceased and her in-laws have been made accused. The in-laws have been granted bail by the Hon’ble Jharkhand High Court after they were arrested, however, the husband of the deceased is still absconding. On 04.07.2020 warrant of arrest has been issued against him.

Learned counsel submits that so far as this appellant is concerned, his prayer for bail was rejected earlier considering the allegation that he had taken away the victim lady and later on the next day her dead body was found. It is his submission that the investigation of Basantrai Police Station case is indicating towards the involvement of the husband and the in-laws in killing of the daughter of this appellant. This is the change of circumstance.

Further, it is submitted that the appellant is in jail in

connection with this case since 09.02.2019, as per the trial court's report only two witnesses have been examined so far out of eight prosecution witnesses, the last witness had been examined on 04.03.2020 meaning thereby that for almost one and half years there is no progress in course of trial. It is his submission that at this stage if the appellant is enlarged on bail, there is no chance of tampering with the evidence or interfering with the course of trial.

Mr. Sadanand Paswan, learned Special P.P. for the State has opposed the prayer for regular bail of the appellant but at the same time after going through the order of this Court submits that there was an observation of this Court and the prayer for bail of the appellant was rejected with liberty.

Considering the facts and circumstances of the case noted hereinabove, having noticed that the appellant has remained in jail in connection with this case for over two and half years, in the meantime co-accused Amarjeet Mandal and Bindeshwari Mandal have been granted privilege of bail by learned coordinate Benches of this Court and now the husband and in-laws of the deceased have been made accused in Basantrai Police Station case which was registered on recovery of the dead body of the victim lady, the trial is not likely to be

concluded in near future because the courts are still working in virtual mode, this Court sets aside the impugned order and directs release of the appellant on bail, let the appellant above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Banka in connection with Rajoun P.S. Case No. 60 of 2019 (G.R. No. 17 of 2019), subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal

antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

vats/-

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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’.