

**27.01.2021**  
**Mithun**  
**Sl. No.20.**  
**D/L.**  
**Ct.No.30**

**CRA/119/2020**  
**with**  
**I.A.No: CRAN/1/2020**

**In re:** An application under Section 374 of the Code of Criminal Procedure regarding a judgment of conviction dated 06.01.2020 and order of sentence dated 07.01.2020 passed by the Learned Additional District and Sessions Judge, 5<sup>th</sup> Court, Malda in Sessions Trial No.43/16 corresponding to Sessions Case No.282/16 arising out of Baisnabnagar Police Station Case No.10 of 2016 dated 07.01.2016 under Section 448/326/34 of Indian Penal Code vide G.R. Case No.80/2016 and charge sheet submitted vide No.95/16 dated 29.02.2016 under Sections 448/326/34/307 of Indian Penal Code thereby convicting the appellants under Sections 326/307 of Indian Penal Code.

**In the matter of : Bikash Mandal @ Anr.**  
**...the appellants.**

Mr.Kallol Mondal, Adv,  
Mr.Musharraf Alam Sk, Adv.  
Mr.Krishan Ray, Adv.

...for the appellant.

Mr.Rana Mukherjee, Adv.,  
Ms.Sujata Das, Adv.

...for the State.

Appellants are suffering sentence for committing offence under Section 326/307 of the Indian Penal Code. The learned Trial Judge sentenced the appellants to suffer rigorous imprisonment for 5 (five) years each and fine of Rs.10,000/- (Ten thousand) each with default clause of

imprisonment for 6 (six) months for committing offence under Section 307 of the Indian Penal Code.

It is submitted by Mr. Mondal that at the time of framing of charge, no charge was framed by the learned Trial Judge under Section 307 of the Indian Penal Code in respect of appellant No.2 though she was convicted and sentenced for committing such offence. Secondly, it is submitted by him that the appellants are suffering sentence for last 1 (one) year. Therefore, they should be enlarged on bail pending disposal of the appeal.

Learned P.P.-in-Charge frankly submits that since the appellants are sentenced to term imprisonment, they should be released on bail following the ratio of the decisions of the Hon'ble Supreme Court in ***Kiran Kumar Vs. State of Madhya Pradesh*** reported in ***2001(9)SCC 211*** and ***Bhagwan Rama Shinde Gosai Vs. State of Gujarat*** reported in ***(1999) 4 SCC 421***.

For the reasons stated above, the petitioners are enlarged on bail of Rs.10,000/- each with one surety of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Malda with further condition that if on bail, the appellant No.1 shall visit the Officer-in-Charge of the local police station once in a month and shall attend the Court at the time of hearing of the appeal, if so required.

If the petitioners violate any of the conditions, the order of bail shall be cancelled without further reference to this Bench.

**(Bibek Chaudhuri, J)**