

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4741 of 2021**

Arising Out of PS. Case No.-117 Year-2020 Thana- PATEPUR District- Vaishali

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AHMAD HUSSAIN S/o Jan Ahmad R/o village- Chakfaij, P.S.- Patepur,
Distt.- Vaishali

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. Suman Kumar son of Binod Sah R/V- Kasturi Sarai, P.S.- Patepur, District-
Vaishali

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sabal Kumar Jha
For the Respondent/s : Mr.Usha Kumari 1

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 13-10-2022

Let the defect(s), as pointed out by the office, be removed
within a period of four weeks from today.

Heard learned counsel for the appellant and learned Spl.P.P.
for the State.

The instant appellant has filed the instant appeal against the
order dated 04.01.2021 passed by the learned court of 1st
Addl. District and Sessions Judge cum Special Judge, Hajipur,
Vaishali namely Sri Rakesh Kumar Mishra in connection with
Patepur P.S. Case No. 117 of 2020 registered under Sections 393, 307
of the Indian Penal Code later on under Section 302 of the I.P.C. and
Section 27 of the Arms Act and also under Section 3(2)(va) of the SC
& ST Act whereby and whereunder the prayer for bail of the
appellant was rejected.



As per prosecution case, three unknown persons tried to snatch the bag of informant in which Rs. 88,000/- was kept. When the informant raised alarm, villagers came there then all accused persons fled away by firing which hit one Mahesh Paswan.

Learned counsel for the appellant submits that appellant is in custody since 29.06.2020. Appellant bears no criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that petitioner is not named in the F.I.R. During the course of investigation, name of present appellants has been transpired in the present case. Nothing has been recovered from the conscious possession of the appellant. During the course of investigation the police has put a T.I.P. in which the appellant has not been identified by the informant.

The learned Spl.P.P. for the State opposes the prayer for bail of the appellant.

Considering the facts and circumstances of the case as well as period of custody, appellant is not named in the F.I.R., charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of the parties and also taking into consideration the material available on record, the order dated 04.01.2021 passed in Patepur P.S. Case No. 117 of 2020 by learned 1st Addl. District and Sessions Judge cum



Special Judge, Hajipur Vaishali namely Sri Rakesh Kumar Mishra is set aside and present appeal is allowed. The appellant is directed to be enlarged on bail in connection with Patepur P.S. Case No. 117 of 2020 on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Addl. District and Sessions Judge cum Special Judge, Hajipur Vaishali, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15-10-2022
Transmission Date	15-10-2022

