

IN THE HIGH COURT AT CALCUTTA

Criminal Appeal

Appellate Side

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA 216 of 2021

Prabir Gumtya @ Prabir Kumar Gumtya

Versus

The State of West Bengal

For the appellant : Mr. Sandipan Ganguly, Ld. Sr. Adv.

: Mr. Apalak Basu, Adv.

: Ms. Manaswita Mukherjee, Adv.

For the State : Mr. Swapan Banerjee, Adv.

: Mr. Anindya Sunder Chatterjee, Adv.

Hearing
concluded on : January 17, 2023

Judgment on : February 16, 2023

Md. Shabbar Rashidi, J.:

1. Two appeals were preferred against the self same impugned judgment of conviction and order of sentence by the same appellant. In consideration of the fact that the instant appeal being **CRA No. 216 of 2021** being prior in point of time, the appeal subsequently filed, being **CRA No. 249 of 2021** was disposed of by order dated January 13, 2023.
2. The instant appeal is directed against the judgment of conviction dated September 29, 2020 and order of sentence dated September 30, 2020 passed by learned Additional Sessions Judge, Fast Track Court, Haldia, Purba Medinipur in Sessions Trial No. 14 of 2016 arising out of Sessions Case No. 06 (12) of 2015, convicting the appellant under Sections 302/379 of the Indian Penal Code, 1860.
3. The case of the prosecution in a nutshell is that on March 26, 2009, the de-facto complainant lodged a written complaint with Mahisadal Police Station stating, inter alia, that on March 24, 2009

at about 8.00 pm, his neighbor, Prabir Gumtya called upon his mother Angur Bala Jana to watch television at the house of Sasanka Sekhar Maity. Both of them went there. According to the de-facto complainant, when his mother did not return till 10.00 pm, he along with his family members, went to the house of Sasanka Sekhar Maity in search of his mother where he was informed that she left their house at 9.00 pm. A search was conducted to trace out the said Angur Bala Jana in the village but she could not be found. She was also searched on the following day at the houses of relatives of the de-facto complainant but she was not found. On March 26, 2009 at about 3.30 am, the mother of the de-facto complainant was traced dead in the chalk forest. The de-facto complainant stated in his written complaint that the dead body of his mother was found in such a way with mud in her mouth and nose that he suspected that someone killed her and therefore threw the dead body. It was also stated that everyone in the village was

searching for the mother of de-facto complainant except Prabir Kumar Gumtya.

4. The villagers searched for said Prabir Kumar Gumtya. He could be found after a while in the village. Upon enquiry by the villagers, it was alleged, that Prabir Kumar Gumtya confessed in presence of villagers that he murdered the mother of the de-facto complainant by suffocating her with the mud into her mouth and nose. He is also said to have admitted that the mother of de-facto complainant admonished him and forbade the brother of de-facto complainant, Sambhunath Jana to drink alcohol and meet him. For such reason, Prabir Kumar Gumtya got angry and suffocated the mother of de-facto complainant, putting mud in her mouth and murdered her.

5. The written complaint also disclosed that the accused was slightly injured as after confessing his guilt, he tried to flee away and the villagers tried to catch hold of him.

- 6.** On the basis of such written complaint, a police case being Mahisadal Police Station Case No. 47 dated March 26, 2009 under Sections 302/379 of the Indian Penal Code, was started against the accused Prabir Kumar Gumtaya.
- 7.** The police took up investigation and on completion thereof submitted charge sheet against the accused named in the First Information Report. Accordingly, on the basis of materials in the case diary, charges under section 302/379/411 of the Indian Penal Code, were framed against the accused/appellant Prabir Kumar Gumtaya, on January 21, 2016. The appellant pleaded not guilty to the charges and claimed to be tried. Hence, he was put on trial.
- 8.** In order to bring home the charges, the prosecution examined 11 witnesses in all. In addition, prosecution also relied upon some documentary as well as material evidences at the trial.

9. The de-facto complainant himself deposed as **PW1**. In his deposition, he reiterated his statement in the written complaint. He stated that on 24.03.2009, at about 8.00 pm, the appellant called his mother to watch TV at the house of Shasanka Maity. She went there to watch TV. When she did not return till 10.00 pm, PW1 and his family members went in search of her to the house of Shasanka Maity but she was not found there. PW1 was informed by Shasanka Maity that she left his house at 9.00 p.m. after watching TV. Thereafter, PW1 along with his family members and neighbors searched for his mother but she could not be found. PW1 further stated that on 26.03.2009 at about 3.00 am, while he was returning from the temple, he discovered the dead body of his mother in the jungle near his house, her nose and mouth were stained with mud. The ear ring of his mother was missing. Seeing this, PW1 thought his mother was murdered. PW1 further stated that knowing the incident, village people came to see but the

appellant did not come. He was in the village. He was handed over to village people when he confessed his guilt before them. He also confessed that he took away the ear rings of the deceased.

10. It was also stated by PW1 that the appellant used to give liquor to his brother Sambhu Nath Jana for which his mother rebuked him. At the relevant time, mother of PW1 was wearing Sari and white 'saya'. The matter was then reported to the police and police arrived there. PW1 lodged a written complaint scribed by his brother Bato Krishna. The appellant was apprehended by the village people and later he was handed over to police. He proved his signature on the written complaint (Ext. 1).

11. PW1 also stated that the ear rings were purchased by his mother from a shop near the maternal home of PW1 and it was sold by the appellant to a jewelry shop at Mahisadal. PW1 identified the shop owner where appellant sold the ear rings. PW1 proved his signature on the seizure

list (Ext. 2) and on the inquest report (Ext. 3). He also identified the accused in Court.

12. PW1 was cross-examined at length. In his cross-examination, PW1 stated that the appellant was apprehended by village people on suspicion as no one knew the actual cause of death of his mother. He also stated that his family had talks with the appellant after his mother went missing. He admitted that he did not seek return of the ear rings belonging to his mother.

13. PW2 is a hearsay witness. He has stated that he came to know from Jana family that on 24.03.2009, at about 8.00 p.m., Angur Jana, mother of PW1 went to watch TV at the house of Sasanka Sekhar Maity being called by the appellant. She, however, did not return and went missing. He further stated that going to the house of Shasanka, he came to know that mother of PW1 came to watch TV with the appellant. The family members started searching her but she could not be found. On 26th March, the dead body of Angur

Bala was found in Khari Bon next to the house of PW1. The appellant was apprehended by the village people as he tried to flee away. PW2 has also stated that all the villagers came to see the dead body except the appellant. It was also stated that the appellant confessed that he murdered the victim by smothering and drowning her mouth in muddy water. He has also stated that the youngest son of Angur Bala used to drink with the appellant for which the victim rebuked him. The appellant is also stated to have stolen away one pair of 'Kan Pasha'. PW2 proved his signature on the inquest report (Ext. 3/1). He also identified the accused in Court. PW2 was also cross-examined extensively. In his cross-examination, besides giving the topography, he stated that the village people suspected the appellant as culprit as all except him visited the dead body after its recovery. He was apprehended by the villagers from his house.

- 14.** PW3 did not add any substance to the case of the prosecution. He was declared hostile by the

prosecution and in his cross examination on behalf of the prosecution, he denied having made any statement before the police.

15. The husband of the victim deposed as PW4.

He stated that his wife rebuked the appellant who used to assist his younger son in consuming liquor. Out of grudge, the appellant committed murder of Angur Bala in Khari Bari situated at some distance from his house. The said place had muddy water and land and the appellant had confessed the murder of wife of PW4 by throttling and pouring mud and clay on her nose and mouth.

16. PW4 also stated that one day prior to her death, his wife went missing when she went to watch TV at the house of Sasanka with the appellant. When she did not return, PW4 and others conducted search for her at the house of relatives and temples. He further stated that he along with village people went to Khari Bari but the appellant did not go there. The appellant was

in his house. The village people interrogate him and he confessed his guilt. PW4 identified the wearing apparel of his wife (Mat. Ext. I). He also identified the appellant in court.

17. In his cross examination, PW4 admitted that no information was lodged with any authority when his wife went missing.

18. The grandfather of PW1 was examined as PW5. He stated that Angur Bala was called by the appellant to watch TV at the house of Maity family, however, she did not return. Her family members searched her for two days at the house of relatives and temples. Later on, she was recovered from Khari Ban. PW5 went there and found her lying with mud in her mouth and her 'Kan Pasa' was missing. He also stated that she was murdered by the appellant. Village people except the appellant came to see her. The appellant was apprehended by the villagers and he confessed that he committed murder. The appellant committed murder of Angur Bala by drowning her in mud. He

also stated that the appellant used to provide liquor to the youngest son of Angur Bala namely Shambhu for which she rebuked him. PW5 also stated that he recorded his statement before Magistrate. He identified the appellant in court.

19. In his cross examination, PW5 stated that he saw the dead body when it was brought by police.

20. One villager deposed as **PW6**. He also stated that the appellant took Angur Bala to watch TV at the house of Maity in the evening. She did not return. Her family members and villagers searched her for two days. Afterwards, her dead body was recovered from Khari Ban. He also stated that all the villagers except the appellant came to see her and that the appellant used to provide liquor to Shambhu, the son of Angur Bala for which she rebuked him. The appellant killed her for such reasons. PW6 also identified the appellant in court.

21. The owner of the jewellery shop was examined as **PW7**. He stated that he had a jewellery shop at Mahisadal under the name and style of Banerjee

jewelery works. On March 25, 2009, the appellant came to his shop to sell one pair of 'Kan Pasa' to arrange money for the illness of his mother. He purchased the same after due verification for Rs. 3000/- and handed over a receipt in this regard. On April 17, 2009, police visited his shop with the said receipt. Thereafter, PW7 handed over the said 'Kan Pasa' to the police which was seized under seizure list. He proved his signature on such seizure list (Ext. 2/1) and the seized 'Kan Pasa' (Mat. Ext.I). PW7 also recorded statement before the Magistrate. He proved his signatures on such statement (Ext. 4 series).

22. In cross examination, PW7 stated that he handed over a receipt to police but the said receipt was not produce in court. The envelope containing the 'Kan Pasa' was not signed by him. It also did not bear the signature of any police personnel. He further stated in his cross examination that generally, signature of the seller used to be obtained at his shop, however, he did not supply

any receipt to the police officer containing signature of the appellant.

23. The second investigation officer deposed as PW8. He stated that being endorsed with the investigation of Mahisadal Police Station Case No. 47 dated 26.03.2009; he collected the post mortem report of deceased Angur Bala Jana. He also collected copies of the statements recorded under section 164 of the Code of Criminal Procedure and on perusal of case diary, he submitted charge sheet under section 302/379/411 of the Indian Penal Code against accused Prabir Gumtya.

24. In his cross examination, PW8 admitted that he did not take steps to ascertain if the recovered ear rings were of gold or otherwise and the seized article was not put on Test Identification Parade. He further admitted that the case diary had no note if the seized article was claimed by anyone.

25. Another police officer was examined as PW9. He stated that on March 26, 2009, the officer-in-charge of Mahisadal police station received a

telephonic information that a dead body was lying in front of the house of one Biswanath Jana (PW1) near Hoglapata jungle. Under direction of the officer-in-charge, PW9 went to there. The dead body was identified by her son whereupon; photograph of the dead body was taken. The photographs were identified by PW9 (Ext. 6 series). PW9 also conducted inquest over the dead body. He also received a written complaint from Biswanath Jana which he sent to the police station. PW9 proved his endorsement on receipt of the written complaint (Ext.1/1). He also proved the inquest report prepared in his pen and signature (Ext. 3/2) and the Formal First Information Report (Ext.7). PW9 further stated that in course of investigation, he visited the place of occurrence and prepared rough sketch map with index (Ext. 8 and 8/1), examined available witnesses and recorded their statements under section 161 of the Code of Criminal Procedure. He also held raid and arrested the accused who was injured being

assaulted by public over the issue of death of Angur Bala. He arranged for medical examination of the accused. He also sent the dead body for post mortem examination and collected the wearing apparel of the deceased produced by one constable and seized the same under a seizure list dated 27.03.2009 (Ext. 9).

26. PW9 further stated that after discharge of the accused from hospital, he interrogated the accused when he confessed that he killed Angur Bala by the process of asphyxia. According to PW9, the accused confessed that he used to consume wine with one Shambu Jana, the son of deceased. Angur Bala raised objection to it for which he killed Angur Bala at Hoglapata jungle by pressing her face into the mud of jungle for which she died of suffocation. The accused further confessed that he snatched one pair of golden ear top and one pair of bangles from the deceased after her death and took the same for selling it to the jewelery shop of Bhupal Prasad Banerjee. The ear rings

were sold for Rs.2200/- whereas the bangles could not be sold as it was not of gold and hence returned to him.

27. PW9 also stated that on the basis of confessional statement of the accused, he went to the jewelery shop accompanied by the son and daughter-in-law of the deceased and on their identification, recovered the ear rings. The ear rings were seized by PW9 under a seizure list (Ext.2/1). He also collected the copies of statements of the proprietor of the jewelery shop and other witnesses recorded under section 164 of the Code of Criminal Procedure. PW9 also stated that the witness Laxmi Kanta Bera made a statement before him under section 161 of the Code of Criminal Procedure and stated interalia that the appellant called the victim for watching TV at the house of Sasanka Maity. He further stated that when she did not return, the son of Angur Bala came to the house of Sasanka Maity where he came to know that his mother left at 9.00

pm and 26.3.2009 the dead body of Angur Bala was found in Khariban and that someone killed her by putting her face into the mud. Laxmi Kanta also stated before PW9 that all the villagers came to see the dead body but the appellant did not come.

28. PW9 also stated that the appellant made a confession before the local villagers that he killed Angur Bala as she used to forbid him from providing liquor to her son Shambhu. He further confessed that he took away the gold ear tops of Angur Bala after her death and tried to flee away from the village. He identified the appellant in court.

29. Upon completion of the evidence on behalf of the prosecution, the appellant was examined under section 313 of Code of Criminal Procedure. The appellant was called upon to explain the circumstances appearing against him as evident from the prosecution evidence when the appellant

claimed his accusation as false. He however, declined to adduce any defense witness.

30. On the basis of the materials on record, the learned trial court, by the impugned Judgment and order convicted the appellant and sentenced him to undergo Rigorous Imprisonment for life and to pay a fine of Rs. 20,000/- and in default of payment of fine to suffer Rigorous Imprisonment of a further period of 2 years, for the offence punishable under section 302 of the Indian Penal Code, 1860.

31. At the time of advancing arguments, learned advocate for the appellant contended that the case is entirely based on circumstantial evidence. However, the prosecution has failed to prove the chain of circumstances to prove the only proposition pointing to the guilt of the appellant. It has been pointed out that the appellant has been roped in on the basis of an extra judicial confession allegedly made by him. The learned

trial court erred in relying upon the extra judicial confession which was obtained by use of force.

32. Learned advocate has also drawn our attention to the fact that the alleged recovery of the ear rings belonging to the deceased, at the instance of the appellant was neither recovered nor proved in accordance with the established law in this regard. In fact, the said ear ring could not be connected to the deceased. The prosecution failed to prove the ownership of the ear ring and its recovery, as set out. Therefore, recovery of ear ring could not be considered to be recovered on the leading statement of the appellant and he cannot be held guilty of the murder of the deceased, Angur Bala.

33. Learned advocate for the appellant also lamented the case of the prosecution with reference to the motive behind the murder of victim to be luxurious and hypothetical one having no basis at all. Similarly, it was contended that the theory of last seen together put forward in the case

of prosecution is not at all believable. Therefore, it has been argued on behalf of the appellant that the impugned judgment and order is liable to be set aside.

34. Learned advocate for the State, while arguing, submitted that the prosecution has been able to prove its case, as set out, with the help of cogent and convincing evidence. The prosecution has proved that the victim was last seen in the company of the appellant and as such, it was incumbent upon the appellant to explain the circumstances leading to the death of the victim. The appellant has failed to discharge such onus. It was also contended that the appellant made a confession of his guilt and the personal belonging of the victim was recovered in pursuance of such confession of the appellant. Moreover, the prosecution has also been able to prove a valid motive behind such murder by the appellant. As such, the appellant has been rightly convicted and

the impugned judgment and order deserves to be upheld.

35. The evidence on record demonstrates that the appellant called the victim from her house to watch TV at the house of one neighbor, Sasanka Sekhar Maity. There appears no definite statement in the deposition of the prosecution witnesses that the victim actually, accompanied the appellant for such purpose. Though, it has been testified by the said neighbor (PW11) that the victim came to his house to watch TV and watched TV for about an hour and returned to her house but there is no statement to the effect that she came there with the appellant or even left for her home with the appellant. Not only that, the de-facto complainant (PW1) in his cross examination, made a statement that Sasanka Sekahar had reported to him that his mother left alone from his house after watching TV.

36. It is explicit from the evidence on behalf of the prosecution, that none of the witnesses have

seen the murder of the victim. The case is entirely based on circumstantial evidence.

37. The circumstance set out as against the appellant is that after two days when the victim had gone missing and her dead body was recovered, everybody in the village came to see her except the appellant. The appellant did not visit the dead body of the victim for which they had suspicion that the appellant had committed her murder.

38. The appellant, as alleged, called upon and accompanied the victim to the house of PW11 to watch TV. PW11 has confirmed that the victim actually came to his house and watched TV and returned to her house. But PW1 in his statement has stated that he was reported by PW11 that his mother left his house alone. There is no witness who ever claimed to have seen the victim in the company of the appellant, within reasonable proximity of time span, just prior to or after, when the victim went missing. In view of such facts, to

our estimation, the appellant can also not be burdened with offering plausible explanation as contemplated under Section 106 of the Indian Evidence Act, 1872.

39. Almost all the prosecution witnesses in a monotone, have reiterated, that, since all the villagers except the appellant came to see the dead body of the victim, the villagers developed a feeling that the appellant was responsible for the death rather murder of the victim.

40. Another circumstance, which has been set up against the appellant, is that the appellant used to provide liquor to the youngest son of the victim for which the victim scolded the appellant. The appellant was prompted to murder the victim out of rancor for such scolding. According to the case made out by the prosecution, such facts were the motive behind the murder of the victim.

41. None of the prosecution witness ever claimed to have seen either the supply of liquor by the appellant to the youngest son of the victim or the

scolding of the appellant by her. There is no evidence whatsoever, that such supply of liquor was ever complained of or reported to any authority. The prosecution also did not take the pain to examine the said youngest son of the victim who has been identified as Sambhu Nath Jana as a witness. In fact, there is no evidence, whatsoever, to prove that the appellant used to provide liquor to the youngest son of the victim and he was reprimanded by the victim for such an act. We are of considered opinion that the motive behind the murder of the victim, so set up by the prosecution, does not instill much confidence in its veracity, strong enough to nail the appellant.

42. Besides that, the appellant is alleged to have made an extra judicial confession acknowledging his involvement in committing murder of the victim Angur Bala Jana. PW1, in his deposition, has stated that upon discovery of the dead body of his mother, village people came to see her but the appellant did not come inspite of being present in

the village. He was then handed over to the village people and on interrogation by the village people, he confessed his guilt.

43. In his cross examination also, PW1 stated that as Prabir was not there, the village people forcefully apprehended him. He was tied by village people. He further stated that as they did not know about the cause of death of his mother, on doubt Prabir was apprehended and later, he was handed over to police. In his cross examination, PW1 further stated that he alongwith others whose names he could not recollect, went to the house of appellant. The family members of the appellant were asleep. He was dragged out of his house breaking open the gate of his house and was kept tied with coconut tree between 3.30 and 5 am.

44. Such case of forceful apprehension of the appellant by the village people has been corroborated by almost all the witnesses. The investigating officer PW9 has also stated that when he arrested the appellant, he was found injured

being assaulted by public on the issue of death of Angur Bala.

45. Therefore, the circumstances coming out from the evidence on record clearly unfolds that the appellant was dragged out of his house by breaking open the gate and was also subjected to, at least, some amount of assault and thrashing. It is in these circumstances, the alleged confession was wrung from the appellant. That too, the alleged confession was extracted on the basis of mere suspicion, for the appellant not attending the dead body of the victim, after its recovery. None of the prosecution witnesses claimed to have seen or heard the appellant making the confession. All that is said is that the appellant made a confession before the village people. The actual person before whom such confessional statement was made has not come forward to depose to the effect that the appellant made a confessional statement before him.

46. Furthermore, the prosecution witnesses have stated that the appellant confessed his guilt before the village people. Nevertheless, none of the prosecution witness has been able to account for the exact words articulated by the appellant in course of such confession. No such confessional statement was ever recorded either under Section 161 or under Section 164 of the Code of Criminal Procedure. The circumstances under which the appellant is said to have made a confession by itself goes to show that it was not a voluntary and credible. There appears every justification that the confessional statement, if at all made by the appellant, might be the result of threat and duress at the hands of the village people.

47. The trend of cross examination of the prosecution witnesses and examination of the appellant under Section 313 of the Code of Criminal Procedure goes to show that the appellant has claimed innocence in the incidence. In the facts and circumstances, we are of

considered opinion that the theory of guilt of the appellant on the basis of alleged confessional statement cannot be safely relied upon.

48. The prosecution has also relied upon the circumstance that the ear ring belonging to the victim has been recovered from one jeweler PW7, as per the statement of the appellant. The written complaint was lodged by PW1 i.e. the son of the deceased victim upon recovery of the dead body. The written complaint itself disclosed that the appellant confessed before the village people that he killed the victim by drowning her nose and mouth in mud. It also discloses that the appellant stole away one pair of ear rings of the mother of de facto complainant. This fact was reiterated by PW1 in his deposition. PW1 also stated that the ear rings were recovered and identified. His mother purchased the same from a shop room near maternal house of PW1. He further stated that he could identify the shop owner where the appellant sold out the said ear rings. The Investigating

Officer PW9 stated in his deposition that the appellant confessed that he stole away one gold ear top from the ear and one pair bangle from the hands of the deceased after her death, which he sold to a jeweler shop owned by Bhupal Prasad Banerjee for a consideration of Rs. 2200/-. It was further stated that the consideration of Rs. 2200/- was paid for the ear top whereas the bangle was returned to the appellant as it was not made of gold.

49. It was also stated by PW9 that on the basis of such confessional statement of the appellant, the Investigating Officer went to the jeweler shop, accompanied by the son and daughter-in-law of the victim, and recovered the ear top which was identified by the said son and daughter-in-law.

50. The statement of PW9 regarding recovery of the gold ornaments on the basis of alleged confession and statement made by the appellant seems somewhat out of gears. The Investigating Officer did not think it necessary to record such

statement of the appellant under Section 161 of the Code of Criminal Procedure. Naturally, no such confessional statement has been proved by the prosecution under Section 27 of the Indian Evidence Act, 1872. The Investigating Officer also did not think it prudent to take along the appellant at the time of conducting raid at jewelry shop for the purpose of recovery of stolen article. The seized ear top was never put on Test Identification parade for the purpose of its identification. There is nothing on record to establish that the same has been identified by the son and daughter in law of the deceased. Moreover, PW9 also admitted in his cross examination that there was no entry in the case diary that the recovered ear top was ever claimed by PW2 or any other legal heir of the victim. In that view of the facts, the case made out by the prosecution that gold ear top alleged to be belonging to the deceased was recovered from the jeweler shop on the basis of confessional statement of the appellant does not seem to be

believable and trustworthy. On the contrary, the jeweler, from whose shop, the recovery is said to have taken place (PW7), has stated that he paid Rs. 3000/- for the ear tops and handed over a receipt in this regard to the appellant. When PW9 visited his shop, the said receipt was shown to him which he identified and thereafter, handed over the ear top to the police. In his cross examination, PW7 admitted that the receipt issued by him was not produced and that the envelope containing the recovered article did not contain his signature or that of any police officer. He further stated in his cross examination, that generally he used to obtain the signature of the seller whenever, any one sold any gold ornament at his shop. However, in this case, he did not hand over any receipt to the police officer, bearing the signature of the appellant. The police never took PW7 to identify the appellant as the persons who sold the ear tops. Astonishingly, there is nothing on record to show an endeavor to find out the pair of bangles stolen

by the appellant from the hands of the victim. In fact, there appears nothing to establish a connection between the appellant and the recovered articles.

51. Therefore, on the basis of discussion made hereinbefore, we are of the view that the impugned judgment of conviction and order of sentence suffers from material irregularity based on erroneous appreciation of evidence and thus, liable to be set aside.

52. Consequently, the impugned judgment of conviction dated September 29, 2020 and order of sentence dated September 30, 2020 passed by learned Additional Sessions Judge, Fast Track Court, Haldia, Purba Medinipur in Sessions Trial No. 14 of 2016 are set aside.

53. Accordingly, the instant appeal being **CRA No. 216 of 2021** is hereby allowed.

54. The appellant shall be released from custody, if not wanted in any other case, upon execution of a bond to the satisfaction of the trial Court which shall

remain in force for a period of six months in terms of Section 437A of the Code of Criminal Procedure.

55. Trial court records along with a copy of this judgment be sent down at once to the learned trial court for necessary action.

56. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

57. I agree.

[DEBANGSU BASAK, J.]