

**In the Court of Addl. District and Sessions Judge, Manjhaul(Begusarai)**  
**Cr. Appeal No- 43/2023**  
**Md. Sonu Vs. State of Bihar**

Ld. Counsel for the Appellant:-Sri. Jitendra Mahto, ld. Adv  
Ld. Counsel for the State:- Sri. Rakesh Kumar, ld. A.P.P

**Order**

**29.11.2023** On behalf of the appellant a petition under section 389 Cr.P.C is pressed praying therein to suspend the sentence of appellant Md. Sonu, s/o- Kaisar during pendency of appeal. The copy petition is served to the ld. A.P.P.

Pressing the petition ld. Counsel for the appellant submits that the accused-appellant was tried for the offence punishable under Section 25(1-B)A, 26 and 35 of the Arms Act and was sentenced to a imprisonment of three years and fine of Rs. 5000/- vide judgment and order dated 31.08.2023 passed by J.M1st Class, Manjhaul(Begusarai). Ld. Counsel submits that during the trial of GR Case No- 140/2022 arising out of Cheria Bariyarpur(Manjhaul) P.S. Case No- 156/2022, the accused-appellant was on bail and he was arrested in another case and at the time of judgment the accused was on production warrant before the trial court. Ld. Counsel further submits that under the circumstances the liberty of the accused-appellant to be released on bail for a period of 30 days was mandatory but the ld. Court erred in not giving that opportunity to the accused appellant, because in this case the accused-appellant was on bail and sentenced awarded three year only.

Ld. Counsel submits that he has substantially taken a ground in appeal and the conviction and sentence both are challenged. Accused-appellant has been falsely implicated in this case, the seizure itself does not confirm the directions contained in section 100 Cr.P.C and 165 of Police Manual. The appeal is not likely to be disposed of soon and as such the sentence awarded to the petitioner be suspended and the petitioner be released on bail.

On the other hand ld. A.P.P does oppose the prayer and petition and submits that appeal be heard and disposed off instead of taking this interlocutory application. As such the petition be rejected.

Heard ld. Counsels and perused the case record and finding first – that the accused-appellant ought to have been given 30 days time to file and appeal and second- that the appeal is not likely to be disposed

of soon, hence, the sentence is suspended during period of appeal and the petitioner is directed to released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of like amount each to the satisfaction of ld. Court below.

Put up this case on 14.12.2023 for hearing the appeal. Both the parties are directed to come prepare.

**ADJ, Manjhaul**