

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5274 of 2024**

Arising Out of PS. Case No.-138 Year-2022 Thana- SONO District- Jamui

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Kaushal Yadav @ Khosal Yadav Son of Late Sukar Yadav R/O Vill.- Bhal-
sumia, P.S.- Sono (Charka Pathar), Dist.- Jamui

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anuj Kumar

For the Respondent/s : Mr.Ramchandra Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 11-05-2026

1. Heard learned counsel for the appellant, learned
counsel for the informant and learned A.P.P. for the State.

2. The present memo of appeal is directed against the
order and judgment dated 21.10.2024 / 25.10.2024 passed by
Shri Kamla Prasad, Additional Sessions Judge- IInd, Civil
Court, Jamui in Tr. No. 1592 / 2022, Registration No. 555/2022
arising out of Sono (Charka Pathar) P.S. Case No.- 138/2022
whereby the appellant has been convicted for the offence under
Section 307 / 149 and sentenced to undergo rigorous imprison-
ment for ten years and fine of Rs. 10,000/- and in default of
payment of fine further sentenced to undergo simple imprison-
ment for one year, under Section 325 / 149 of the I.P.C.
sentenced to undergo rigorous imprisonment for seven years and
fine of Rs. 5,000/- and in default of payment further sentenced



to simple imprisonment for six months, under Section 323 / 149 of the I.P.C. sentenced to simple imprisonment for one year and fine of Rs. 1,000/- and in default in payment of fine to further undergo simple imprisonment for one month and under section 147 of the I.P.C. sentenced to simple imprisonment for two years. It was ordered that all sentences will run concurrently.

3. As per the prosecution case on 13.05.2022 at about 8:25 hours the informant's nephew was returning by his motorcycle after attending a function and when he reached near the house of Pankaj Yadav he saw some persons were dancing on the tune of D.J. sound and when the informant's nephew blew horn, the appellant along with other accused persons abused him, and on protest, they assaulted the informant's nephew and other family members with various weapons including lathi, sword, danda, khanti, iron and steel etc. The allegation against the appellant is that he assaulted on the head of Gono Yadav (P.W. 4) by front portion of the spade leading to incised wound on mid parietal skull area.

4. Learned counsel for the appellant on the point of suspension of sentence and grant of bail argued that allegation in the F.I.R. is that altogether 5-6 persons assaulted Khuni Yadav (deceased) but only two injuries have been found on the



person of the deceased i.e. one near the eye brow and another on the head. Referring to the deposition of eye witnesses viz. P.W.1, P.W. 3, P.W. 4 & P.W. 5, learned counsel submits that the witnesses have deposed that Kanhaiya Yadav assaulted on the head of the deceased. Lalu Yadav assaulted with sword on the head of deceased- Khuni Yadav. Gono Yadav and Bhim Yadav both were assaulted on the head. The prosecution witnesses have not proved the allegation / charge against the appellant beyond all reasonable doubt and allegation is not corroborated by medical evidence also. The appellant has remained in custody for about 2 ½ years and the appeal is not likely to be taken up for final hearing in near future.

5. Learned counsel for the State as well as informant vehemently opposed the prayer for bail and submits that appellant is named in the F.I.R. and he along with the other co-convicts assaulted the deceased and other family members of the informant causing grievous injury and subsequently the deceased Khuni Yadav died during course of treatment. The informant has filed an appeal against acquittal bearing Cr. Appeal (DB) No. 1526 of 2024 in which L.C.R. has been called for and the same is pending for admission before this court.



6. Regard being had to the submission made by the parties, taking into consideration the nature of evidence adduced during course of trial, the fact that appellant has remained in custody for about 2 ½ years and the appeal is not likely to be taken for final hearing in near future as such the sentence awarded to the appellant is directed to be remain suspended during pendency of this appeal subject to deposit of fine.

7. Accordingly, let the appellant, above named, be released on bail during pendency of this appeal on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Shri Kamla Prasad, learned Additional Sessions Judge- IInd, Civil Court, Jamui in connection with Tr. No. 1592 / 2022, Registration No. 555 / 2022 arising out of Sono (Charka Pathar) P.S. Case No. 138 / 2022.

(Anil Kumar Sinha, J)

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