

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (DB) No.673 of 2018**

Arising Out of PS. Case No.-856 Year-2016 Thana- ARARIA District- Araria

Vijay Kumar Yadav @ Vivek Kumar @ Golu, S/o- Late Ramanand Yadav,  
R/o- Upharail, Ward No- 9, P.S.- Maranga, District- Purnia.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

**Appearance :**

For the Appellant/s : Mr.Y.C.Verma, Sr. Adv.  
Mr. Sanjeev Kumar Singh, Adv.  
For the Respondent/s : Ms. Shashi Bala Verma, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
**and**  
**HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)**

4    09-08-2018                      Heard Sri Y.C. Verma, learned senior counsel,  
assisted by Sri Sanjeev Kumar Singh, learned counsel for  
the appellant and Ms. Shashi Bala Verma, learned Addl.  
Public Prosecutor.

The appeal was admitted on 09-07-2018. While  
admitting and summoning lower court record, learned State  
Counsel was granted time for filing written objection to the  
prayer for bail and, thereafter, it was directed to list this  
appeal along with lower court record.

Ms. Shashi Bala Verma, learned Addl. Public  
Prosecutor submits that despite her best effort, she has not



been able to get any instruction. However, on the basis of materials available on record, she has opposed the prayer for suspension of sentence and granting bail to the appellant.

Sri Y.C.Verma, learned senior counsel appearing on behalf of the appellant, by way of cursorily referring to the evidence, submits that the present case is completely based on circumstantial evidence without any proof of completion of chain and, as such, it was not a case for conviction, however learned trial Judge has incorrectly passed Judgement of conviction and sentence. Accordingly, he submits that it is a fit case for passing order for suspension of sentence and granting bail to the appellant during pendency of the appeal.

Besides hearing learned counsel for the parties, we have also cursorily examined the evidence on record and after going through the same, it is evident that during investigation, the appellant was apprehended and his confessional statement was recorded by the police under Section 161 of the Code of Criminal Procedure. The confession led to recovery of certain facts, which were only



within the knowledge of the appellant. His confession also led to recovery of ATM Card of the deceased and, thereafter, it was noticed that ATM Card was subsequently used and amount was transferred. The learned trial Judge considered that it was completion of chain of circumstantial evidence and, thereafter, he passed the judgment of conviction and sentence. The appellant was solely tried and held guilty.

In view of the facts and circumstances, we are not inclined to pass favourable order.

Accordingly, the prayer for suspension of sentence and grant of bail stands dismissed.

**(Rakesh Kumar, J.)**

**(Arvind Srivastava, J.)**

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