

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1012 of 2024

Arising Out of PS. Case No.-157 Year-2020 Thana- CHAND District- Kaimur (Bhabua)

Bhorik Bind Son of Makar Bind Resident of village - Baheriya, P.S.- Chand,
District - Kaimur at Bhabua.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

with

CRIMINAL APPEAL (DB) No. 1029 of 2024

Arising Out of PS. Case No.-157 Year-2020 Thana- CHAND District- Kaimur (Bhabua)

1. Banshi Bind S/o Late Khedu Bind Resident of Village - Baheriya, P.S. - Chand, District - Kaimur at Bhabua
2. Bablu Bind S/o Banshi Bind Resident of Village - Baheriya, P.S. - Chand, District - Kaimur at Bhabua

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with

CRIMINAL APPEAL (DB) No. 1042 of 2024

Arising Out of PS. Case No.-157 Year-2020 Thana- CHAND District- Kaimur (Bhabua)

1. Daroga Bind Son of Late Maker Bind village- Baheriya, Ps- Chand, dist- kaimur at Bhabua
2. Okindar Bind son of Daroga Bind village- Baheriya, Ps- Chand, dist- kaimur at Bhabua

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with

CRIMINAL APPEAL (DB) No. 144 of 2025

Arising Out of PS. Case No.-157 Year-2020 Thana- CHAND District- Kaimur (Bhabua)

Birendra Bind @ Virendra Bind Son of Late Murahu Bind Resident of Village
- Baheriya, P.S. - Chand, District - Kaimur at Bhabua

... .. Appellant

Versus

The State of Bihar

... .. Respondent



Appearance :

(In CRIMINAL APPEAL (DB) No. 1012 of 2024)

For the Appellant : Mr. Rajani Kant Pandey, Advocate

For the Respondent : Mr. Ajay Mishra, APP

For the Informant : Mr. Ravi Shankar Sahay, Advocate

Mr. C.M.Jha, Advocate

Mr. Hira Lal Gupta, Advocate

(In CRIMINAL APPEAL (DB) No. 1029 of 2024)

For the Appellants : Mr. Kumar Sunil, Advocate

Mr. Sharsh Shubham, Advocate

Mr. Utkarsh Shandilya, Advocate

For the Respondent : Km. Shashi Bala Verma, APP

(In CRIMINAL APPEAL (DB) No. 1042 of 2024)

For the Appellants : Mr. Rajani Kant Pandey, Advocate

For the Respondent : Mr. Abhimanyu Sharma, APP

(In CRIMINAL APPEAL (DB) No. 144 of 2025)

For the Appellant : Mr. Aquaib Khan, Advocate

Mr. Dharmendra Kumar Singh, Advocate

Mr. Shahrukh Siddiqui, Advocate

For the Respondent : Mr. Binod Bihari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

11 20-01-2026 Heard learned counsel for the appellants, learned Additional Public Prosecutors for the State as also learned counsel for the informant.

2. The records of these appeals have been placed before this Court to consider the prayer of the appellants for suspension of their sentence and release on bail during pendency of the appeals.

3. The appellants in these appeals have been convicted vide judgment dated 09.07.2024 and sentenced vide order dated 11.07.2024 passed by learned Additional District and Sessions Judge-III, Kaimur at Bhabhua, in Sessions Trial



No. 82 of 2021, arising out of Chand P.S. Case No. 157 of 2020, for the offences punishable under Sections 302/364/201 of the Indian Penal Code. They have been ordered to undergo rigorous imprisonment for life and to pay a fine of Rs.20,000/- for the offence punishable under Section 302 IPC and in default of payment of fine, they have to further undergo rigorous imprisonment for two months. For sake of brevity, the sentences awarded under other sections are not mentioned.

4. The prosecution case is based on the *fard-beyan* of Madhu Devi (PW 4), who is the wife of the deceased, recorded on 21.11.2020 at 07:45 am in Baheria by S.I. Sanjay Kumar (PW 6). According to the informant (PW 4), on 20.11.2020 at about 05:00 PM, she had gone to the *Chhath Ghat* to perform the rituals of the *Chhath Vrat*. She had left behind her daughter Rinki Kumari (PW 1) and son. At about 9 O'clock in the night, her daughter raised *hulla* that her father was being taken away by the named accused persons-the appellants. Only after some time, her son Brajesh Kumar (PW 3) came running to her and told her that the named accused persons (the appellants) had taken away his father, whereafter, she along with her son came running to her house and started searching out her husband Tunnu Bind in nearby houses in the neighbourhood, but nothing



could be found. She has further stated in her *fard-beyan* that thereafter she continued the search of her husband with her daughter and members of the family during the whole night near the Gehuwanwa River. Then she claimed that in course of search, on 21.11.2020 at 06:15 am, the dead body of her husband lying in the plot of one Shivmuni Bind was found. There were serious injuries on the body of the deceased, from which she opined that her husband had been killed by the accused persons by a sharp edged weapon because of a land dispute and thereafter threw the dead body outside the village in the field. The *fard-beyan* of the informant (PW 4) had been witnessed by her daughter Rinki Kumar (PW 1) and Lakhi Devi (not examined).

5. Learned counsel for the appellants submits that in this case Brajesh Kumar (PW 3) has claimed himself as an eye-witness of the occurrence of taking away of his father (the victim). In his evidence, he has stated that the occurrence is of 20.11.2020 at about 07:00 pm when he along with his father was coming after covering the paddy crop and when they reached near the house of Bhorik Bind, there six persons were already present, who caught hold of his father, Okinder Bind threatened him with a *khanti* whereafter he fled away and came to call her



sister Rinki Kumari (PW 1) and thereafter both of them went to the *Chhath Ghat*. It is pointed out that according to PW 3, he along with his sister and mother had gone to the house of Bhorik Bind, but found the doors closed, whereafter all the three had gone to the police station and told the occurrence and then returned to their village. In paragraph 10 of his deposition, PW 3 has, in fact, stated that his family members had gone to the police station on 20.11.2020 and Darogaji had recorded their statement, whereafter police had come to the village at 09:00 pm. This part of the statement of PW 3, it is submitted, finds support from the evidence of the S.H.O., Chand Police Station (PW 6), who has admitted in paragraph 8 of his deposition that information regarding murder of Tunnu Bind was received on 20.11.2020 and he had gone to village Baheria at the place of occurrence in the night of 20.11.2020. It is with this statement present in the deposition of PW 3 and PW 6, learned counsel for the appellants submits that apparently the first version of the prosecution story as revealed to the S.H.O. on 20.11.2020 has been suppressed by the prosecution. Therefore, the inordinate delay in lodging of the FIR would create a huge dent in the prosecution story which remains unexplained.

6. Learned counsel further submits that the



prosecution in this case has miserably failed to show that there was any motive on the part of the appellants behind killing of the deceased Tunnu Bind. In the *fard-beyan*, PW 3 has stated about a land dispute, but, in her deposition, she has clearly stated that one Pappu Bind is his brother and Pappu had lodged a case against Tunnu. The defence suggested that Tunnu had got a deed in respect of a land from his mother-in-law and for that reason Pappu had lodged a case against him. So far as any land dispute between the appellants are concerned, the prosecution has not brought any evidence in this regard and the IO of this case (PW 7) has categorically stated that he had not investigated the case as regards any land dispute.

7. Learned counsel for the appellants further submits that the police has shown recovery of a *khanti* from the hut of Bhorik Bind on the basis of his confessional statement, but it would be evident on perusal of the confessional statement that the same has not been recorded in accordance with law and it is in the teeth of the judgments of the Hon'ble Supreme Court, moreover, the seizure list witnesses of the *khanti* are the two police constables, but did not depose in course of trial. The blood stains said to have been found at places over the *khanti* have not been matched with the blood of the deceased.



8. In these circumstances, learned counsel for the appellants submits that there are *prima facie* materials and palpable grounds to show that on ultimate analysis, the appellants would be entitled for suspension of their sentences and release on bail.

9. The prayer of the appellants has been opposed by learned counsel for the informant and learned Additional Public Prosecutors for the State. It is their common submission that PW 3 is an eye-witness of the occurrence and the deceased was killed on account of a land dispute. On record, the defence has brought Exhibit 'A'. Exhibit 'B', Exhibit 'C' and Exhibit 'D', which are certified copies of the FIRs against Tunnu Bind to show that the deceased in this case was having so many criminal antecedents of serious nature including that of murder, therefore, possibility of his killing by anyone else outside the village cannot be ruled out.

10. Having regard to the entire submissions noted herein above and the submissions of learned counsel for the parties and the State, we have *prima facie* noticed that in this case PW 3 and PW 6, both have stated about the information with regard to the death of Tunnu Bind on 20.11.2020. The first version of the prosecution case which unfolded and were



revealed with the visit of PW 3, his sister and mother to the police station, has not been brought on record. We have further noticed that the IO has not investigated this case on the point of any land dispute and the prosecution witnesses have failed to place any material showing a land dispute between the deceased and the appellants, rather the evidence on the record would show that the dispute was between the deceased and his brother-in-law Pappu and they were having a title suit pending. We have further noticed that the police is said to have recovered a *khanti* on the basis of the confessional statement, but apparently the confessional statement has not been recorded in accordance with law and the recovery had been shown with the help of two seizure list witnesses, who are police constables that too they never deposed at the trial. The fact remains that the blood stains said to be present on *khanti* has not been matched with the blood of the deceased.

11. In our considered opinion, keeping in view the principles laid down by the Hon'ble Supreme Court in the case of *Omprakash Sahni vs. Jai Shankar Chaudhary and Anr.* reported in (2023) 6 SCC 123 reiterated in the case of *Janardan Ray vs. The State of Bihar and Anr.* passed in Cr. Appeal Nos. 1892-1893 of 2025 on 9th April, 2025, there are



palpable materials on the record, which would lead us to take a view that the appellants deserve suspension of sentence and bail. Accordingly, we direct suspension of the sentence of the appellants, above named, and their release on bail during pendency of the appeals on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III, Kaimur at Bhabhua, in Sessions Trial No. 82 of 2021, arising out of Chand P.S. Case No. 157 of 2020.

12. Fine, if any, imposed as part of sentence shall remain suspended during pendency of the appeals.

13. It is clarified that the observations made hereinabove are only *prima facie* and tentative in nature for purpose of consideration of bail of the appellants which would not cause prejudice to either of the parties.

14. List these appeals for hearing on their turn.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

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