

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1180 of 2018**

Arising Out of PS. Case No.-4 Year-2016 Thana- BUXAR INDUSTRIAL District- Buxar

Shekhar Pandey @ Shekhar Suman Pandey @ Sintu Pandey @ Situ, son of
Radha Raman Pandey @ Radhe Raman Pandey, resident of Village-
Churamanpur, P.S.-Buxar (I), District-Buxar

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bindhyachal Singh, Sr. Advocate
Mr. Parijat Saurav, Advocate
For the State : Mr. Abhimanyu Sharma, APP
For the Informant : Mr. Sanjay Singh, Sr. Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

12 22-11-2024

I.A. No.02 of 2022

Heard learned senior counsel for the appellant,
learned senior counsel for the informant and learned Addl.P.P.
for the State.

2. By filing this interlocutory application, the
appellant Shekhar Pandey @ Shekhar Suman Pandey @ Sintu
Pandey @ Situ has renewed his prayer for suspension of
sentence and release on bail during pendency of the appeal.

3. The appellant has been convicted and sentenced
vide judgment and order dated 18.08.2018 and 23.08.2018
passed by the learned A.D.J.-II-cum-Special Judge, Excise



Court, Buxar in Sessions Trial No.265 of 2016 arising out of Buxar (I) P.S. Case No.4 of 2016 for the offences under Sections 302/34, 307/34 of the Indian Penal Code (in short 'IPC') and Section 27(3) of the Arms Act and has been ordered to undergo a sentence of rigorous imprisonment for life with a fine of Rs.50,000/- for the offence under Section 302/34 and in default of payment of fine, he shall further undergo simple imprisonment of six months. For brevity sake, the sentences awarded under other Sections of IPC and Arms Act are not being mentioned.

4. As per the prosecution story, allegedly, due to the election rivalry the appellant and other co-accused surrounded Rama Shankar Pandey @ Jhaman Pandey, Shivji Pandey and Ghanshayam Pandey @ Mantu Pandey directed to catch him and then the appellant, Chottu Mishra and Lattu Pandey after pointing out pistol caught hold Rama Shankar pandey @ Jhaman Pandey and Shivji Pandey shot him in his head and when the informant and others raised alarm then all the accused persons opened fire upon them but they fled away and the brother of the informant died.

5. Learned senior counsel for the appellant submits that from the evidences on the record, it would appear that there



is a general kind of statement that this appellant along with some other had caught hold of the deceased Jhaman Pandey. The main assailant of the deceased is one Shivjee Pandey who had allegedly fired from a close range on his head.

6. Learned senior counsel further submits that while rejecting the prayer for bail of this appellant on earlier occasion, this Court, in its order dated 21.01.2020 observed that the Court was not inclined to grant bail to the appellant at this stage. At this stage, the appellant has already remained in incarceration for over six years seven months and since the rejection of his prayer for bail more than 4½ years have gone past but the appeal has yet not been listed for hearing.

7. Learned senior counsel for the informant submits that earlier the prayer for bail of the appellant was rejected by this Court noticing that there were evidences showing that he along with the other co-accused had caught hold of the deceased. It is submitted that instead of granting bail to the appellant, the appeal itself may be fixed for hearing.

8. Learned Addl.P.P. for the State submits that this appellant has got four criminal antecedents, however, the submission of learned Addl.P.P. for the State has been contested by learned senior counsel for the appellant saying that the kind



of cases registered against the appellant are of petty nature and there were general and omnibus kind of allegations against him.

9. Having regard to the submissions noticed hereinabove and on going through the records for a prima-facie view at this stage, we are of the opinion that in the kind of the allegations against the appellant and the materials in which he has been convicted showing that he along with other had caught hold of the deceased, the allegation being general in nature and he has already spent six years seven months in incarceration but the appeal has not been listed for hearing, we direct suspension of sentence and release of the appellant on bail, during pendency of the appeal, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-II-cum-Special Judge, Excise Court, Buxar in connection with Sessions Trial No.265 of 2016 arising out of Buxar (I) P.S. Case No.4 of 2016.

10. The fine, if any, imposed as a part of sentence shall remain suspended during pendency of the appeal.

11. It is made clear that the observations made hereinabove are only *prima-facie* and tentative for the purpose of suspension of sentence and bail only which would not cause



prejudice to the either parties.

12. The I.A. stands allowed.

13. The Registry shall list this appeal for hearing on
it's turn.

(Rajeev Ranjan Prasad, J)

(Partha Sarthy, J)

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