

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.216 of 2024**

Arising Out of PS. Case No.-51 Year-2015 Thana- AZIMABAD District- Bhojpur

Manoj Manzil, Son of Mithilesh Kumar, Resident of Village - Kapoor Dihra,
P.S. - Tarari, District – Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 237 of 2024

Arising Out of PS. Case No.-51 Year-2015 Thana- AZIMABAD District- Bhojpur

1. Ravindra Chaudhary, Son of Sri Ramadhar Chaudhary, Resident of Village- Bargaon, P.S.-Azimabad, District-Bhojpur, Ara.
2. Guddu Chaudhary, Son of Sri Akshay Kumar Chaudhary @ Abhay Chaudhary, Resident of Village-Bargaon, P.S.-Azimabad, District-Bhojpur, Ara.
3. Rohit Chaudhary, Son of Late Sigan Chaudhary, Resident of Village- Bargaon, P.S.-Azimabad, District-Bhojpur, Ara.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 216 of 2024)

For the Appellant/s : Mr. Yogesh Chandra Verma, Sr. Advocate

For the Respondent/s : Mr. Abhimanyu Sharma, APP

(In CRIMINAL APPEAL (DB) No. 237 of 2024)

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate

Ms. Kiran Kumari, Advocate

Md. Imteyaz Ahmad, Advocate

Mr. Ritwik Thakur, Advocate

Ms. Vaishnavi Singh

For the Respondent/s : Mr. Abhimanyu Sharma, APP



CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

5 13-05-2024 Mr. Yogesh Chandra Verma, the learned Senior Advocate files reply to the written objection across the Board.

2. Let it be taken on record.

3. Both the appeals, *viz.*, Cr. Appeal (DB) Nos. 216 of 2024 and 237 of 2024 (four appellants in all) have been taken up together on the issue of suspension of sentence of the appellants.

4. We have heard Mr. Yogesh Chandra Verma, the learned Senior Advocate for the appellant in Cr. Appeal (DB) No. 216 of 2024 and Mr. Ajay Kumar Thakur, the learned Advocate for the appellants in Cr. Appeal (DB) No. 237 of 2024. The State in both the cases has been represented by Mr. Abhimanyu Sharma, the learned APP.

5. The written objection in both the appeals are



on record.

6. The appellants have been convicted under Sections 302, 364, 201 and 149 of the Indian Penal Code *vide* judgment dated 13.02.2024 passed by the learned Special Judge, M.P./M.L.A Court-cum-Additional Sessions Judge-III, Bhojpur at Ara in Sessions Trial No. 123 of 2019, arising out of Azimabad P.S. Case No. 51 of 2015. By order dated 13.02.2024, they have been sentenced to undergo R.I. for life, to pay a fine of Rs. 10,000/- each and in default of payment of fine, to further suffer S.I. for three months under Section 302/149 of the IPC; R.I. for ten years, to pay a fine of Rs. 10,000/- each and in default of payment of fine, to further suffer S.I. for three months under Section 364/149 of the IPC; R.I. for three years, to pay a fine of Rs. 5,000/- each and in default of payment of fine, to further suffer S.I. for one month under Section 201/149 of the IPC.

7. The sentences have been ordered to run



concurrently.

8. The occurrence is of the year 2015.

9. The son of the deceased, *viz.*, Chandan Kumar (P.W. 8) had lodged the written report dated 21.08.2015 that on 20.08.2015, while he and his father (deceased) were returning from the market, members of the communist party waylaid them. Appallant/Manoj Manzil is said to have caught the father of the informant, whereafter all others crushed him with stones and later, caused the disappearance of his body. He too was attempted to be killed, but he ran away. He has named several persons in the FIR including appellants/Manoj Manzil and Ravindra Chaudhary. The appellants along with several others have been named by him in the FIR.

10. We have noticed that the FIR was registered on 22.08.2015.

11. According to the prosecution case, the deceased was stoned to death. However, the dead body



is said to have been recovered from a drain on 27.08.2015. Though, the inquest report has not been brought on record, but we have examined it from the police papers which reflect that the body was unclaimed and the cause of death was assessed to be by drowning.

12. Later, the post-mortem was conducted on 28.05.2015 when the son and others had identified the dead body. The dead body was found to be maggot-ridden and completely putrefied.

13. The learned Advocates for the appellants have submitted that it was well-nigh impossible for anyone to have identified such a decomposed body.

14. In any view of the matter, when the post-mortem examination was conducted, the Doctor noticed and opined that death was because of strangulation leading to respiratory failure. In either case, namely, with the doubts about the correct identification of the dead body as also the nature of



injury on the person of the deceased, the prosecution case stands completely belied.

15. Apart from this, it has been submitted that there was unusual delay in lodging the FIR.

16. According to P.W. 8/informant, the police had come to the place of occurrence immediately after the dead body of the deceased was taken away. It was only natural for the son (P.W. 8) to have lodged the FIR there and then. The written report on the contrary is dated 21.08.2015 but the FIR was registered only on 22.08.2015.

17. It was argued that the appellants have been named because of political rivalry.

18. Apart from this, it has been submitted on behalf of appellants/Guddu and Rohit that with respect to them, none of the witnesses have said anything which could even remotely bring the charge of murder against them.



19. The written objection discloses that there are 18 cases against appellant/Manoj Manzil.

20. In response to the afore-noted statement, a reply has been filed on behalf of appellant/Manoj Manzil indicating that in all such cases mentioned in the written report regarding him, he is on bail and all such cases have been filed at the instance of his political enemies. He represents a legislative assembly constituency as an elected MLA.

21. Mr. Abhimanyu Sharma, the learned APP, however, has submitted that it was at the instance of appellant/Manoj Manzil that the members of the communist party (MALE) started looking for people of a particular caste and on his exhortation, the deceased was killed and his dead body was taken away. Under such circumstances, the prayer for suspension of sentence of the appellants ought not to be considered presently.

22. After having heard the learned counsel



for the parties and having gone through the records and taking note of the mitigating features, *viz.*, the delayed lodging of the FIR and the identification of the dead body to be doubtful, we are inclined to suspend the sentences of the appellants during the pendency of the appeal.

23. While saying so, we have also taken note of the fact that all the appellants were on bail during trial and the occurrence is of the year 2015.

24. We order accordingly.

25. For the reasons afore-stated, the sentence of the appellants/applicants, *viz.*, Manoj Manzil in Cr. Appeal (DB) No. 216 of 2024; and Ravindra Chaudhary, Guddu Chaudhary and Rohit Chaudhary in Cr. Appeal (DB) No. 237 of 2024 are suspended and they are directed to be released on bail, during the pendency of the appeal, on their furnishing bail bonds in sum of Rs. 10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of the



learned Special Judge, M.P./M.L.A Court-cum-Additional Sessions Judge-III, Bhojpur at Ara in Sessions Trial No. 123 of 2019, arising out of Azimabad P.S. Case No. 51 of 2015.

26. The amount of fine imposed on the appellants/applicants shall remain stayed during the pendency of the appeal.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Sauravkrsinha/
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