

Patna High Court - Orders

Guddu Singh vs The State Of Bihar on 15 November, 2019

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (DB) No.623 of 2019

Arising Out of PS. Case No.-132 Year-2016 Thana- KHARIK District- Bhagalpur

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GUDDU SINGH, Male, aged about 43 years, son of Ramdeo Singh, Resident of Village-Kharik Kathela, Modi Tola, P.S.- Kharik, Distt - Bhagalpur, Pin Code - 853202

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with

CRIMINAL APPEAL (DB) No. 637 of 2019

Arising Out of PS. Case No.-132 Year-2016 Thana- KHARIK District- Bhagalpur

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KHUSHBU DEVI, aged about 30 years, Female, wife of Late Rajesh Kumar Singh, Resident of Village-Kharik, Modi Tola, P.S.- Kharik, District- Bhagalpur

... .. Appellant

Versus

The State of Bihar

... .. Respondent/s

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with

CRIMINAL APPEAL (DB) No. 689 of 2019

Arising Out of PS. Case No.-132 Year-2016 Thana- KHARIK District- Bhagalpur

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Ashok Kumar Singh, aged about 56 years, Male, Son of Late Hari Singh @ Late Hari Prasad Singh, Resident of Village- Kharik Katela, P.S.- Kharik, District- Bhagalpur

... .. Appellant

Versus

The State of Bihar

... .. Respondent/s

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with

CRIMINAL APPEAL (DB) No. 690 of 2019

Arising Out of PS. Case No.-132 Year-2016 Thana- KHARIK District- Bhagalpur

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GULSHAN KUMAR Son of Ashok Kumar Singh Resident of Village- Kharik, Modi Tola, P.S- Kharik, District- Bhagalpur.

... .. Appellant/s

Patna High Court CR. APP (DB) No.623 of 2019(7) dt.15-11-2019

Versus

The State of Bihar Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (DB) No. 623 of 2019)

For the Appellant/s : Mr.Raj Narayan Mishra

For the Respondent/s : Mr.Km. Shashi Bala Verma

(In CRIMINAL APPEAL (DB) No. 637 of 2019)

For the Appellant/s : Mr.Rana Pratap Singh

For the Respondent/s : Mr.Ashwani Kumar Sinha

(In CRIMINAL APPEAL (DB) No. 689 of 2019)

For the Appellant/s : Mr.Rana Pratap Singh

For the Respondent/s : Mr.Manish Kumar No2

(In CRIMINAL APPEAL (DB) No. 690 of 2019)

For the Appellant/s : Mr.Rana Pratap Singh

For the Respondent/s : Mr.Abhimanyu Sharma

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY) 7 15-11-2019 On 24.07.2019, all these appeals were admitted and record of Lower Court in connection with Sessions Trial No. 224 of 1997 were called for and liberty was given to the State to file written objection against the prayer of bail. Accordingly, these appeals are being taken up today.

In these appeals, prayer has been made to suspend the order of sentence and grant bail.

The matters relate to Kharik P.S. Case No. 132 of 2016 for the offence under Sections 302 and 120(B)34 of the Indian Penal Code. As per the F.I.R. lodged by one Arbind Kumar Singh, stating therein that his father was Dafadar in Circle No.3 of Kharik Police Station. After his retirement, his Patna High Court CR. APP (DB) No.623 of 2019(7) dt.15-11-2019 elder brother Rajesh Kumar Singh was appointed as Chaukidar in the year 2001. The marriage of his elder brother was done with the daughter of Ashok Kumar Sigh namely, Khusboo Kumari. While staying in the Sasural, he used to attend his duty. His elder brother has one son namely Vivek Kumar and two daughters namely, Muskan Kumari and Nisha Kumari. After the marriage, his brother failed to develop a good relation with his wife, during that period, he was also assaulted and threatening was hurled to leave the place, while living outside, he was attending his duties but, after some time, on pursuation of his wife and one brother-in-law, his brother returned to his Sasural and used to tell his mother that under conspiracy he might be killed.

On 09.09.2016, the informant received a phone call from Inspector of Kharik Police Station about the death of his brother. On receipt of information, he came to Kharik village and found the dead-body of his brother. It has been alleged that under the conspiracy, the accused persons killed the brother of the informant and for disappearance of dead-body, they kept the dead-body on the PCC road. It has also been alleged that the dead-body has various injuries and foam was coming from the mouth. Accordingly, the case was instituted under Sections 302 Patna High Court CR. APP (DB) No.623 of 2019(7) dt.15-11-2019 and 120(B)/34 of the Indian Penal Code.

Altogether, 12 witnesses have been examined including 2 important witness i.e. mother and daughter.

Learned counsel for the appellants has tried their best to persuade this Court to depict that it is a case of no evidence as the girl was hardly four years at the time of occurrence and gave her statement before the Court while she was about six years old, inasmuch as, no substantive statement has been made before the Police. It has also been submitted that the F.I.R. has also been instituted after the long delay even after the preparation of inquest report.

Looking to the materials in entirety, we arrive to a finding that it is not a fit case where we should exercise the discretion in favour of the appellants to grant bail for the present. Accordingly, the prayer for bail is rejected.

(Shivaji Pandey, J) (Prabhat Kumar Singh, J) pawan/-

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