

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S).....OF 2025
(@SPECIAL LEAVE PETITION (CRL.) NO(S).7674/2023)**

NARENDRA PRASAD @ NAGENDRA PRAJAPATI

APPELLANT(S)

VERSUS

THE STATE OF BIHAR & ANR.

RESPONDENT(S)

J U D G M E N T

Leave granted.

2. The present SLP is filed against the impugned order of the High Court of Judicature at Patna in I.A. No.2 of 2023 in Criminal Appeal (DB) No.167 of 2022 wherein the sentence of second respondent herein was suspended and he was released on bail on furnishing bail bonds of Rs.10,000 (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-XI, Kaimur at Bhabua in Sessions Trial No. 246 of 2019, Registration No. 246 of 2019, G.R. No. 755 of 2019, arising out of Durgawati P.S. Case No. 98 of 2019.

3. The appellant herein is the elder brother of the informant (now deceased) and eldest son of the deceased/victim.

4. Briefly stated, the facts of the case according to the appellant are that on 11.04.2019, second respondent along with

his two brothers [Sechu Bind and Abhimanyu Bind] had altercations with the informant over the latter cleaning his vehicle on the road. While the eye-witnesses separated them, the second respondent and his brothers equivocally threatened the informant and went away. Within half an hour, the second respondent and his two brothers returned, with the former armed with a *gadasa* (heavy sharp metal blowing weapon usually used to chop necks of animals) while the latter brothers were armed with lathis/heavy sticks. The disabled father of the informant arrived at the crime-scene but was given a blow with the *gadasa* by Respondent No.2 and was hit on his body with *lathis* by the two brothers. The father of the informant succumbed to injuries on 15.04.2019.

5. As regards the second respondent, charges were framed against him under sections 307/34, 323/34, 506/34, 504/34 and 302/34 of the Indian Penal Code, 1860 [hereinafter referred to as the "IPC"]. The learned Additional District & Session Judge-XI, Bhabua (Kaimur), on culmination of trial, pronounced his judgment on 18.01.2022 and convicted all three accused under Section 302 read with Section 34 of IPC and vide order dated 22.01.2022, awarded punishment of life imprisonment and fine on each of them.

6. All the three accused, including second respondent herein, filed Criminal Appeal No.167/2022 before the High Court of Judicature at Patna which is pending till date. In the interim,

however, the High Court of Judicature at Patna allowed I.A. No.1/2022 in Cr. Appeal No.167/2022 vide order dated 04.01.2023 whereby sentence of life imprisonment of the brothers of second respondent were suspended and they were released on bail. The appellant herein had challenged this order before this Court in SLP (Crl.) No.7648/2023, which was dismissed by this Court vide order dated 27.06.2023.

7. The High Court of Judicature at Patna also allowed I.A.No.2/2023 in Criminal Appeal No.167/2022, wherein, *vide* impugned order dated 03.05.2023, suspended the sentence of life imprisonment of second respondent herein and he has been released on bail.

8. Being aggrieved by the order dated 03.05.2023 passed by the Division Bench of the High Court of Judicature at Patna in I.A.No.2 of 2023 in Criminal Appeal (DB) No.167 of 2022, the appellant, who is the brother of the informant (now deceased) and son of the deceased victim, has preferred this appeal.

9. We have heard learned counsel for the appellant, learned counsel for the first respondent-State and learned senior counsel for the second respondent/accused No.1.

10. We have perused the material on record.

11. One of the main arguments advanced by the learned counsel for the appellant was with regard to the manner in which the application (I.A. No. 2 of 2023) has been considered by the

High Court. It was submitted that the Sessions Court sentenced, *inter alia*, the second respondent/accused No.1 to life sentence with fine and being aggrieved by the same, the second respondent along with two other accused preferred the Criminal Appeal. While considering the application seeking suspension of sentence, there has been no recording of the submissions on behalf of the State or the learned counsel for the informant; that the order of suspension of sentence and grant of bail is in fact cryptic and on that reason alone, the impugned order may be set aside. While submissions are also made on the merits of the case, we have not considered that aspect of the matter in the instant case.

12. *Per contra*, learned senior counsel for the second respondent/accused supported the impugned order and contended that two other accused namely, accused Nos.2 and 3 have also been granted the relief of suspension of sentence and bail. This is a case where the allegation was under Section 302 read with Section 34 of the Indian Penal Code, 1860 (for short "IPC). Therefore, having regard the principle of parity & consistency in the matter, the Division Bench of the High Court of Judicature at Patna has rightly granted the relief to the second respondent herein and hence there is no merit in this appeal. She therefore submitted that this appeal may simply be dismissed as the Criminal Appeal is now at large before the Division Bench which would be heard in its own turn.

13. Learned counsel for the first respondent-State, however, submitted that although the State has not filed an appeal, it is supporting the appellant herein and therefore, appropriate orders may be made in this appeal.

14. We have considered the arguments advanced at the Bar in light of the impugned order and also the fact that the appeal is of the year 2022 which is pending before the Division Bench of the High Court of Judicature at Patna. On perusal of the impugned order, we find that the contentions of the second respondent herein /accused has been noted, but no contention on behalf of the Additional Public Prosecutor or the learned counsel for the informant has been noted by the High Court and the relief of suspension of sentence and bail has been granted to the second respondent-accused in a case where the accused have been convicted by the Sessions Court under Section 302 read with Section 34 of the IPC.

15. We find that the approach of the High Court has not been in accordance with what is required to be considered in the matter of suspension of sentence and grant of bail in an appeal filed as against a conviction of life sentence and fine. In this regard, the judgments of this Court are very instructive.

16. In the circumstances, on that short ground alone, we set aside the impugned order. We remand the matter to the High Court. We request the High Court to reconsider IA No.2 of 2023 in accordance with law and as expeditiously as possible and

preferably within a period of one month from the date the parties, who are represented by their respective counsel, would appear before the High Court. The parties shall appear before the High Court of Judicature at Patna either in person or through counsel on 17.03.2025 without expecting any separate notices being issued by the High Court. In the event the second respondent herein fails to appear or be represented before the High Court on 17.03.2025, the High Court shall take appropriate steps to secure his presence.

17. We clarify that we have not made any observations on the merits of I.A.No.2 of 2023 in Criminal Appeal (DB) No.167 of 2022.

18. The appeal is allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
FEBRUARY 11, 2025.

ITEM NO.15

COURT NO.7

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S).7674/2023

[ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 03-05-2023 IN IA NO. 02/2023 PASSED BY THE HIGH COURT OF JUDICATURE AT PATNA]

NARENDRA PRASAD @ NAGENDRA PRAJAPATI

PETITIONER(S)

VERSUS

THE STATE OF BIHAR & ANR.

RESPONDENT(S)

(IA NO. 2751/2024 - EXEMPTION FROM FILING O.T.
IA NO. 109035/2023 - EXEMPTION FROM FILING O.T.
IA NO. 109034/2023 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 11-02-2025 This matter was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s): Mr. Bipin Bihari Singh, AOR
Mr. Pankaj Kumar Singh, Adv.

For Respondent(s): Mr. Anshul Narayan, Addl.
Standing Counsel, Adv.
Mr. Prem Prakash, AOR
Mr. Amit Pratap Shaunak, Adv.

Mrs. Anjana Prakash, Sr. Adv.
Mr. Anuj Prakash, Adv.
Mr. Namit Saxena, AOR
Mr. Niraj Dubey, Adv.
Mr. Pradum Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Appeal is allowed and disposed of in terms of the signed order, which is placed on file.

Pending application(s), if any, shall stand disposed of.

(B. LAKSHMI MANIKYA VALLI)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)