

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1808 of 2019**

Arising Out of PS. Case No.-48 Year-2015 Thana- KINJAR District- Jehanabad

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Kishan Yadav, aged about 60 years, Male, son of Late Munshi Yadav @
Tengar Yadav, resident of village – Laraua, P. S.- Karpi, District - Arwal

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Umesh Kumar, Adv.
For the Respondent/s : Mr. Binay Krishna, APP

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

4 28-08-2019 Heard learned counsel appearing for the appellant as
well as learned Additional Public Prosecutor for the State.

This criminal appeal has been preferred against the
impugned order, dated 01.12.2018, passed by Additional
Sessions Judge-1st, Jehanabad in Sessions Trial No. 304 of 2015
arising out of Kinjar P. S. Case No. 48 of 2015, by which and
whereunder, learned Additional Sessions Judge-1st, Jehanabad
rejected the bail prayer of the appellant.

Learned counsel appearing for the appellant submits
that earlier the bail prayer of the appellant was rejected by this
court, vide order dated 18.05.2016, passed in Cr. Misc. No.
14887 of 2016 at initial stage of the case but subsequently, four
witnesses, who were named in the charge-sheet, were examined



and not a single prosecution witness supported the prosecution story rather the aforesaid witnesses did not name the appellant. To prove the above stated contention, he produced the certified copy of depositions of prosecution witnesses as well as copy of charge-sheet. Let the certified copy of depositions of prosecution witnesses as well as copy of charge-sheet be kept on record.

Learned Additional Public Prosecutor opposed the prayer for bail submitting that the appellant is said to have given *Gadasa* blow causing death of the deceased.

The perusal of impugned order goes to show that two witnesses could be examined till 01.12.2018 but the copy of depositions filed by the appellant go to show that altogether four prosecution witnesses have been examined up till now. The copy of charge-sheet goes to show that only four witnesses were shown in the column of prosecution witnesses in the said charge-sheet and all the four charge-sheeted witnesses have already been examined.

Learned counsel appearing for the appellant submits that, as a matter of fact, Sessions Trial No. 304 of 2015 is pending only for recording the statement of investigating officer but even if the statement of investigating officer is recorded, then,



also the statement of investigating officer will not make any difference as not a single prosecution witness named the appellant, who is languishing in jail custody since 22.08.2015.

Considering the facts and circumstances of the case as well as submissions of the parties, this criminal appeal is allowed and accordingly, the impugned order, dated 01.12.2018, passed by Additional Sessions Judge-1st, Jehanabad in Sessions Trial No. 304 of 2015 arising out of Kinjar P. S. Case No. 48 of 2015 is set aside and, accordingly, the appellant, above named, is directed to be released on bail on furnishing bail bond of Rs. 10,000 (Ten Thousand) with two sureties of the like amount to the satisfaction of learned Additional Sessions Judge-1st, Jehanabad in connection with Sessions Trial No. 304 of 2015 arising out of Kinjar P. S. Case No. 48 of 2015.

(Hemant Kumar Srivastava, J)

Rajeev Kumar/-

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