

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.28 of 2021**

Arising Out of PS. Case No.-115 Year-2009 Thana- KHIJARSARAI District- Gaya

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Birendra Mahto @ Girani Mahto S/o Late Bhajan Mahta, resident of Village-
Saidpur Bazar, P.S.- Khizersarai, District- Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant : Mr.Ravindra Kumar Sinha, Advocate

For the Respondent : Mr. Abhimanyu Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 23-09-2021

The instant appeal has been filed for setting aside the judgment of conviction and order of sentence dated 26.02.2020 and 17.03.2020 respectively passed by learned Additional Sessions Judge-IV, Gaya in Sessions Trial No.04 of 2015/255 of 2010 arising out of Khizersarai P.S. Case No.115 of 2009.

The appeal has been filed erroneously before the Division Bench. The substantive sentence awarded to the appellant by the Trial Court is 10 years.

Rule 36 under Chapter XII of the Patna High Court



Rules provides that an appeal in which the substantive sentence upto and inclusive of 10 years has been passed shall be laid before a Single Judge for admission.

In that view of the matter, the appeal is disposed of as not maintainable.

However, since it is an appeal against judgment of conviction, the appellant would be at liberty to file an appropriate application before the Single Judge challenging the impugned judgment of conviction and order of sentence.

(Ashwani Kumar Singh, J)

(Arvind Srivastava, J)

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AFR/NAFR	NAFR
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