

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.450 of 2016

Arising Out of PS. Case No.-98 Year-2006 Thana- RAGHUNATHPUR District- Siwan

Shri Kishun Bin, Son of Late Inar Bin, Resident of village - Shitalpur, P.S.
Raghunathpur, District - Siwan

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 601 of 2010

1.Manoj Bin s/o Hari Charan Bin, r/o Village-Sitalpur, Police Station-
Raghunathpur, District-Siwan

2.Lalan Bin s/o Hari Charan Bin, r/o Village-Sitalpur, Police Station-
Raghunathpur, District-Siwan

3.Kamal Bin s/o Kuldeep Bin, r/o Village-Sitalpur, Police Station-
Raghunathpur, District-Siwan

4.Harendra Bin s/o Kuldeep Bin, r/o Village-Sitalpur, Police Station-
Raghunathpur, District-Siwan

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 450 of 2016)

For the Appellant/s : Mr. Dr. Ranjeet Kumar, Adv

Mr. Ayush Kumar, Adv

Mr. Kansihak Kaustabh, Adv

Mr. Shikhar Mani, Adv

For the Respondent/s : Ms. Shashi Bala Verma, APP



(In CRIMINAL APPEAL (DB) No. 601 of 2010)

For the Appellant/s : Mr. Dr. Ranjeet Kumar, Adv
Mr. Ayush Kumar, Adv
Mr. Kansihak Kaustabh, Adv
Mr. Shikhar Mani, Adv
For the Respondent/s : Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 19-10-2023

As both these appeals arise out of the same impugned judgment and order passed by the learned trial court, have been heard together and are being disposed of by the present common judgment and order.

2. The appellants have preferred these appeals under Section 374(2) of the Code of Criminal Procedure assailing the judgment of conviction dated 06.04.2010 and an order of sentence dated 12.04.2010 passed by the learned Additional District and Sessions Judge-IInd Siwan in Sessions Trial No. 401 of 2007 and 198 of 2008 whereby and whereunder, the appellants have been convicted and sentenced as under :-



Appellant Kishun Bin in Criminal Appeal (DB) No. 450 of 2016

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
under Section 302/34 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Under section 364 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Section 201 of the IPC	Seven years Imprisonment for life		
Section 120B of the IPC	-----	-----	-----

Appellant Manoj Bin in Criminal Appeal (DB) No. (601 of 2010)

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
under Section 302/34 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Under section 364 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Section 201 of the IPC	Seven years Imprisonment for life		
Section 120B of the IPC	-----	-----	-----



Appellant Lalan Bin in Criminal Appeal (DB) No. (601 of 2010)

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
under Section 302/34 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Under section 364 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Section 201 of the IPC	Seven years Imprisonment for life		
Section 120B of the IPC	-----	-----	-----

Appellant Kamal Bin in in Criminal Appeal (DB) No. (601 of 2010)

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
under Section 302/34 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Under section 364 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Section 201 of the IPC	Seven years Imprisonment for life		
Section 120B of the IPC	-----	-----	-----



Appellant Harendra Bin in Criminal Appeal (DB) No. (601 of 2010)

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
under Section 302/34 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Under section 364 of the IPC	Imprisonment for life	Rs. 5000/-	Six months simple imprisonment
Section 201 of the IPC	Seven years Imprisonment for life		
Section 120B of the IPC	-----	-----	-----

3. A *fardbeyan* of the informant Lalti Devi (PW-6), the widow of the deceased recorded on 19.11.2006 by Sub-Inspector of Raghunathpur Police Station (PW-7), is the basis for registration of the FIR i.e. Raghunathpur P.S. Case No. 98 of 2006, disclosing commission of the offences punishable under Sections 364/120B/34 of the Indian Penal Code. Subsequently, under the orders of the court below, Section 302 of the IPC came to be added as the victim was found dead. The occurrence is of 15.11.2006. According to the informant, in the evening the appellant Kishun Bin, had come to the informant's house and requested the informant's husband Hareram Bin (the deceased) to come along with him. They went together from the



informant's house. Since the informant's husband Hareram Bin did not return till late in the night, she went to the house of the appellant Kishun Bin to inquire his whereabouts. The appellant Kishun Bin was sleeping in his house and did not disclose anything about the informant's husband. Since, till the next morning the informant's husband did not return, she started searching for him in the village in course of which she learnt that her husband's slippers were lying somewhere near Lohia Bhawan situated adjacent to the house of Kishun Bin. Further, his *lungi* was found lying in the agriculture-field on the southern side of the village. She further mentioned that a case relating to land dispute was going on in a court of law between the appellant Harendra Bin and the informant's family since long, in relation to which the informant's husband was assaulted earlier also. She also mentioned in her *fardbeyan* that an application was given to the police station on 16.11.2006 itself regarding disappearance of her husband since, 15.11.2006. She also mentioned in her *fardbeyan* that the appellant Harendra Bin and his family members Lallan Bin, Manoj Bin, Kamal Bin and one Vijay Bin (not an appellant) used to threaten the informant's husband of dire consequences, should the case was not withdrawn by him. With these allegations the informant



suspected that because of previous animosity these appellants and one Bijay Bin might have kidnapped the informant's husband under a well hatched up conspiracy for killing him.

4. A significant aspect is noteworthy at this juncture itself. From the *fardbeyan* of the informant it appears that according to the informant, she had submitted an application before the police station on 16.11.2016 itself relating to disappearance of her husband. The said application has not come on record in any manner, much less by way of an evidence. Be that as it may, based on the aforesaid information said to have been received on 19.11.2016 at 9:30 AM by the police, the said FIR was registered. The investigation was handed over to the officer who had recorded the *fardbeyan* namely, Ramanand Singh (PW-7). It transpires from the materials on record that during the course of investigation, the dead body of the informant's husband was recovered from a *well* located in the outskirts of a village Panjwar, which is why Section 302 of the IPC came to be added in the FIR under the orders of the court. An inquest report was prepared on 25.11.2006 at 10:30 AM and the dead body was subjected to postmortem examination on the same day at 3:30 PM. Following is the finding of the postmortem examination:-

“R.M was absent. Whole body was swollen and



decomposed with foul smelling. Cloth was wet. Skin of the body was whitish in appearance and peeled off at places. Maggots were creeping all over the body. Hair was absent on head. There was incised wound on the abdomen extending from symphysis pubis to xiphoid process of sternum 6"x1/4" abdominal cavity deep. Intestine was out of the abdominal cavity and was punctured at places. Liver was also punctured. Stomach was punctured. Lungs shrunk on both sides. Heart empty on both sides. Rest of the viscera were decomposed. The cause of death was haemorrhage and shock as a result of above mentioned injury caused by sharp cutting weapon. Time since death to PM examination 05 to 10 days."

5. The police upon completion of investigation submitted charge-sheet for the offences punishable under Sections 364, 302, 201, 120B read with Section 34 of the IPC against the Kishun Bin, Lallan Bin, Manoj Bin, Harendra Bin (all appellants) Jitendra Bin and Bijay Bin. It further transpires from the records that the accused Bijay Bin and Jitendra Bin came to be declared juvenile and accordingly, they were referred to the Juvenile Justice Board. Later, charges were framed against the appellants as also Jitendra Bin for commission of the offences punishable under Sections 364, 302/34 and 201 of the



IPC. It is clarified that whereas Bijay Bin was declared juvenile before framing of charge, the accused Jitendra Bin was declared juvenile subsequent to the framing of the charge. The appellants pleaded innocence and claimed to be tried. Accordingly, they were put on trial.

6. At the trial, the prosecution examined altogether 8 witnesses. The doctor, who had conducted the *postmortem* examination was examined at the trial as PW-8 whereas the IO, namely Ramanand Singh as PW-7. The Doctor (PW-8) proved the *antemortem* injuries found on the person of the deceased as mentioned in the *postmortem* report. Other prosecution witnesses are the co-villagers of the informant except PW-2. In addition to the oral evidence of the prosecution's witnesses, the prosecution adduced at the trial, following documentary evidence to establish the charge against the appellants:-

Sl. No.	Description	Exhibit Number
1.	Signature of a witness on the inquest report	Exhibit-1/1
2.	Inquest report	Exhibit-1/2
3.	Fardbeyan	Exhibit-2
4.	Formal FIR	Exhibit-3
5.	Postmortem report	Exhibit-4
6.	Certified copy of Raghunathpur P.S. Case No. 51 of 2002	Exhibit-5

7. After closure of the prosecution's evidence the



appellants were questioned under 313 of the CrPC so as to give them an opportunity to explain the incriminating circumstances emerging against them. The appellants answered the questions in negative. Following was the only question which was put by the trial court to all the appellants to explain the circumstances:-

"प्रश्न :- आपके विरुद्ध साक्ष्य है कि दिनांक 15.11.06 को संध्या 7 बजे हरे राम बिन साकिन शीतलपुर थाना रघुनाथपुर जिला सिवान को श्री किशुन बिन घर से बुला कर ले गये तथा आपलोग ने मिलकर सूचक के पति का अपहरण कर हत्या कर दीये इस संबंध में क्या कहना है ?

उत्तर: मैं निर्दोष हूँ ।

प्रश्न :-सफाई में कुछ कहना है?

उत्तर: जी नहीं ।

8. The defence brought on record by way of Exhibit-A, the information given by the informant on 16.11.2006 about the disappearance of the deceased, to the police apparently in order to make out a case that it was not disclosed in the said information by the informant that the deceased had not gone with the appellant Kishun Bin on his request rather the deceased had left the house after informing the informant that he was going to some place and would return late. The trial court, after having appreciated the evidence adduced at the trial reached a conclusion that the prosecution successfully proved that the appellants took the deceased away from his house in the presence of the informant (PW-6) and under conspiracy they killed the deceased. Further the appellants, in order to escape



their criminal liability caused disappearance of the evidence by throwing the dead body in a *well*.

9. Learned counsel appearing on behalf of the appellants has submitted that it is a manifestly case of circumstantial evidence supported by informant (PW-6) having seen the appellant Kishun Bin last with the deceased whereafter the deceased had become traceless. The only other circumstance which the prosecution has attempted to prove in this case is that the appellants were seen together armed with *lathi* and *danda* etc., near Lohiya Bhawan. There is yet another circumstance, which the prosecution has proved to establish the charge against these appellants that slippers of the deceased were found near Lohiya Bhawan. It has been argued on behalf of the appellants that the aforesaid three circumstances cannot be said to be constituting a complete chain of circumstances pointing towards the guilt of these appellants as the only hypothesis ruling out any other possibility. He has also submitted that the suppression by the prosecution of the foremost disclosure made by the informant to the police about the deceased having become traceless casts serious doubt on the entire prosecution's case. Strong reliance has been placed on Exhibit-A to contend that the allegation made in the FIR that the deceased had gone with the



appellant Kishun Bin from his house on the fateful day stands falsified. The entire prosecution's case is doubtful to the extent the same relates to the implication of these appellants.

10. Learned Additional Public Prosecutor appearing on behalf of the State has defended the finding and has submitted that the informant proved at the trial that the deceased was last seen with the appellant Kishun Bin. The deceased had gone with Kishun Bin. In such circumstance, the burden of proof as to what happened with the deceased thereafter was on the appellant Kishun Bin as that fact was within the special knowledge of the appellant Kishun Bin. The appellant Kishun Bin having failed to discharge the said burden under Section 106 of the Evidence Act, the trial court's finding of conviction cannot be said to be unjustified. She further submits that it is not the case of last seen only. The person with whom the deceased had gone was subsequently seen by the other co-villagers with other persons variously armed at a place from where slippers of the deceased were recovered. The recovery of the slippers of the deceased from near a place where the appellants were found together with the deceased is a strong circumstance to prove that the deceased was killed by these appellants. She, accordingly, contends that the finding of conviction does not require



interference.

11. The informant Lalti Devi, deposed as PW-6. Other prosecution's witnesses are co-villagers of the informant except PW-2 who deposed at the trial that he had seen the appellants Harendra Bin, Kamal Bin, Lallan Bin carrying *lathi*, *danda* etc. and going towards the village Sitalpur. He had questioned them as to wherefrom they were coming. They had avoided to respond and had kept moving. In the morning, he learnt that the deceased was kidnapped. He did not name the appellant Kishun Bin as one amongst the persons who had been seen by him. He specifically mentioned in his cross-examination that appellant Kishun Bin was not there with other persons. This is one of the circumstances which the prosecution has attempted to prove in order to sustain the charges framed against the appellants, other than Kishun Bin.

12. We need now to consider the evidence of PW-6, the Informant. PW-6, the informant deposed in her examination-in-chief that few days after disappearance of her husband (the deceased) she had learnt from Moti Chand Bin (PW-3) and Manan Bin (PW-4) that the appellants Lalan Bin, Manoj Bin, Harendra Bin @ Matar Bin, Kamal Bin and two others namely Jitendra Bin and Bijay Bin were seen at Lohia Bhawan. Twelve



days after the Informant's husband had become traceless, his dead body was recovered by the police which was identified by her. It is evident from her examination-in-chief that according to her, name of the appellant Kishun Bin was disclosed to her as one among those, who were seen by the prosecution's witnesses viz. Moti Chand Bin (PW-3) and Manan Bin (PW-4). Further, in her cross-examination she deposed that she had informed the police about the occurrence on 15.11.2008. She also deposed that two days after she had given her first *fardbeyan*, the police had come to her house and she had disclosed the same facts which she had disclosed earlier. The police had seized the *chappal* and *lungi* of the deceased. It is pertinent to note that in paragraph 20 of her deposition the informant mentioned that on the next morning of the occurrence, appellant Kishun Bin was apprehended by the police and was taken to the police station and subsequently sent to jail. She also deposed that appellant Kishun Bin and victim were on talking terms.

13. The investigating officer in his evidence deposed that in course of enquiry relating to the information given by the informant regarding missing of her husband on 16.11.2006, he had gone to the Informant's village whereupon her *fardbeyan* was recorded on 19.11.2006. He also admitted that on



16.11.2006 at about 3:00 pm, the informant had given an application which was entered in the station diary by Sanha No. 256. It is significant to note that the information which was given by the informant on 16.11.2006 was not brought on record by prosecution though the said information has been brought on record by defence by way of Exhibit-A. If what is mentioned in the Exhibit-A is taken to be correct, the deceased had left the house after informing the informant that he was going to some place and would return late. She had also mentioned that her husband had gone with appellant Kishun Bin aged 70 years. It does not appear from the information given by the informant to the police on 16.11.2006 (Exhibit-A) that the appellant had requested the deceased to come along with him whereafter the deceased had gone with him. Be that as it may, it is manifest that the prosecution attempted to suppress the first version of the occurrence reported by the informant to the police.

14. PW-1 in her deposition testified that at about 9:00 am, when she had gone to ease herself, she had seen the accused Matar Bin (Harendra Bin), Kamal Bin, Lallan Bin, Jitendra Bin, Kishun Bin coming hurriedly from a low land area and they were carrying *lathi*, *danda* etc. Evidence of PW-2, a resident of village Kanesar, as has been noted above, is to the extent that he



had seen the accused persons together except the appellant Kishun Bin.

15. PW-3, a co-villager deposed that he had seen these appellants with the deceased Hareram Bin and other accused persons together at about 7:00 pm discussing with each other. Similar is the deposition of PW-4 on the point of presence of the accused persons with the victim, seen by him.

16. We have perused the impugned judgment of the trial court and the trial court's records and we have given our thoughtful consideration to the rival submissions advanced on behalf of the parties.

17. There is no gainsaying that this case is purely based on circumstantial evidence and the main circumstance upon which the prosecution's case rests is that the deceased had gone with the appellant on the appellant's request from his house in the presence of the informant. As has been rightly pointed out, there is another circumstance of the presence of these appellants near Lohiya Bhawan where they were seen with *lathi* and *danda*.

18. The cardinal principles for conviction based on circumstantial evidence have been succinctly laid down by the Supreme Court in the case of ***Sharad Birdhi Chand Sarda vs***



State Of Maharashtra reported in ***(1984) 4 SCC 116***. The Supreme Court has laid down that following five conditions must be followed before the case against the accused is said to be fully established on circumstantial evidence:-

“**153.** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrL LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

“Certainly, it is a primary principle that the accused *must* be and not merely *may* be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

17. The decision in the case of ***Sharad Birdhi Chand***



Sarda (supra) has been consistently followed by all courts and holds the field. In no uncertain terms, the Supreme Court held that the circumstances concerned, for which conclusion of guilt is to be drawn, should be fully established. Explaining the dictum enunciated in the case of ***Shivaji Sahabrao Bobade vs State of Maharashtra*** reported in ***(1973) 2 SCC 793***, the Supreme Court in ***Sharad Birdhi Chand Sarda (supra)*** also noted that *it is a primary principle that the accused 'must be' and not merely 'may be' guilty before a court can convict and the mental distance between "may be" and "must be" is long and divides vague conjectures from sure conclusions.*

19. The questions which arise in the present appeals are as to whether the prosecution was able to prove the circumstances to establish guilt of these appellants were fully proved; secondly the facts so established in the present trial are consistent only with the hypothesis of guilt of these appellants; thirdly do they exclude every other possible hypothesis except the one to be proved; and fourthly whether the prosecution could prove the chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of these appellants? From the facts of the present case, we notice from Exhibit-A that it has not been disputed that



the informant had given an information to the Officer-in-charge of Raghunathpur Police station, Siwan on 16.11.2006 to the effect that her husband (the deceased) had left the house late in the evening of 15.11.2006 informing her that he will return late. As the deceased did not return till 16.11.2006, the said information was given to the police. She had also mentioned that the deceased had gone with the appellant Kishun Bin. There is no whisper in the said information that Kishun Bin had come to the house of the informant with a request to the deceased to come along with him. Subsequently, in the FIR the informant alleged that the appellant Kishun Bin had come to her house and asked the deceased to come along with him. The circumstances that the appellant Kishun Bin had come to the informant's house and had taken the deceased along with him cannot be said to have been conclusively proved at the trial there being difference between what was disclosed in the information given on 16.11.2006 to the police and *fardbeyan* of the informant dated 19.11.2006, which is the basis of registration of FIR. The deceased and the appellant cannot be said to be on inimical terms as on the date of occurrence which is evident from the fact that the informant in her evidence deposed that they were on talking terms and she had gone to the house of the appellant



Kishun Bin to inquire about the whereabouts of the deceased. Accused Kishun Bin was found sleeping in his house and upon having been asked by the informant, he expressed his inability to tell her the details about the deceased. The presence of the appellant in his house soon after the appellant had disappeared is a circumstance which casts doubt over the prosecution's case of the appellant having committed the offence. In normal circumstance, after having committed the offence of murder he would have attempted to conceal himself. As regards, second circumstance of presence of the appellants near Lohiya Bhawan, it has to be noted that PW-2 in his deposition specifically deposed that appellant Kishun Bin was not amongst the persons who were seen near Lohiya Bhawan though the other appellants were present. Evidence of PW-3 is not consistent with the evidence of PW-2 as according to PW-3 he had seen the appellant Kishun Bin also. They were armed with *lathi* and *danda*. The *antemortem* injuries found on the person of the deceased do not indicate any injury caused by hard and blunt substance rather the injury, according to the medical evidence, was found to have been caused by a sharp cutting weapon in the abdomen of the deceased. We find it difficult to accept the submission made on behalf of the State that the presence of the



appellants near Lohiya Bhawan, even if found to have been conclusively proved, the same can be said to be a circumstance connecting the appellants with the killing of the deceased. The possibility of the appellant having accidentally fallen down under the *well* sustaining injuries as found in the *postmortem* examination cannot be completely ruled out. In the court's opinion, the circumstance said to have been proved at the trial in the background of what has been narrated hereinabove does not exclude every possible hypothesis except killing of the deceased by these appellants, which is one of the conditions to be essentially fulfilled before the case against the appellants can be said to be fully established based on circumstantial evidence.

20. We have no hesitation, in reaching a conclusion that it is not a case where all the circumstances can be said to be complete leaving no gap in the chain of circumstances. The prosecution has completely failed to establish in the present case beyond all reasonable doubts any connection between these appellants with the death of the deceased.

21. There is yet another aspect of the matter which we intend to deal with. We have reproduced hereinabove the solitary question which was put to these appellants by the trial court while examining them under section 313 of the CrPC. On



a plain reading, the said question is evident that all the incriminating circumstances on which the court relied for reaching a conclusion of the guilt of these appellants were not explained to them. The questions so put in the present case was too vague to be answered. It is trite that examination of accused under section 313 of the CrPC is not a formality and it is obligatory for the court to explain incriminating circumstances emerging from the evidence adduced at the trial so that the accused may have an opportunity to explain the circumstances. In the present case, no question was put to these appellants about their presence together near Lohiya Bhawan on the fateful night nor recovery of the dead body of the deceased from a *well*. The appellants were vaguely asked to explain the circumstances that there was evidence that they had kidnapped the deceased on 15.11.2006 and killed him. The court cannot approve the manner in which the appellants were questioned under Section 313 of the CrPC. It was not permissible for the trial court to have relied upon such circumstance which were not explained to these appellants.

22. Situated thus, in the background of the discussions as noted above and the facts and circumstances, the finding of conviction recorded by the trial court cannot be upheld.



23. Accordingly, the judgment of conviction dated 06.04.2010 and the order of sentence dated 12.04.2010 passed by the learned Additional District and Sessions Judge-IInd Siwan in Sessions Trial No. 401 of 2007 and 198 of 2008, are set aside.

24. Consequently, the appellants are acquitted of the charge for the commission of the offences punishable under under section 302, r/w 34, 364 and 201 of the Indian Penal Code r/w 120B thereof by giving them benefit of doubt.

25. The appellants Manoj Bin, Lalan Bin, Kamal Bin Harendra Bin are on bail, hence they are discharged from the liability of their bail bonds and sureties, if any.

26. Since the appellant Kishun Bin is in custody, let him be released from jail forthwith, if not required in any other case.

27. Both these appeals are allowed.

(Chakradhari Sharan Singh, J)

(Nawneet Kumar Pandey, J)

suraj/ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
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