

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2897 of 2024

Arising Out of PS. Case No.-28 Year-2020 Thana- KARTAHA District- Vaishali

Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan S/O Ashok Kumar @
Ashok Kumar Singh R/O Village- Harnarayana, P.S- Shikarganj, Motihari,
District- East Champaran.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2594 of 2024

Arising Out of PS. Case No.-28 Year-2020 Thana- KARTAHA District- Vaishali

Vishal Kumar @ Vishal Kumar Singh Son of Ram Naresh Singh R/O Vill.-
Balwa Kuari, P.S.- Sadar Hajipur, Dist.- Vaishali

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2897 of 2024)

For the Appellant/s : Mr. Shivanand Singh, Adv.
Mr. Siddharth Harsh, Adv.

For the Respondent/s : Mr. Mukeshwar Dayal, APP

(In CRIMINAL APPEAL (SJ) No. 2594 of 2024)

For the Appellant/s : Mr. Sanjeev Kumar Singh, Adv.

For the Respondent/s : Mr. Bal Mukund Prasad Sinha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 26-10-2024

Heard the parties.

2. The present matter was taken on board for
considering the prayer of bail and suspension of sentence
of above named accused/appellant, namely, Pintu @ Pintu
Kumar @ Nikesh @ Ravan @ Rawan during pendency of



appeal under Section 389(1) of the Code of Criminal Procedure (in short Cr.P.C.) as raised through memo of appeal itself, which preferred under Sections 374(2) of the Cr.P.C., for which a submission was advanced as not to pressed for the present.

3. Accordingly, the prayer of bail and suspension of sentence under Section 389(1) of the Cr.P.C. for appellant namely, Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan stands dismissed as not pressed.

4. At this point, learned counsel for the appellant submitted that appellant namely, Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan is in custody for more than half of the sentence and therefore this appeal be heard finally which was not objected by learned APP for State.

5. Accordingly, both these appeals have been heard together and are being disposed of by this common judgment, for the reason that both arises out of same impugned judgment.

6. Both above-mentioned appeals have been preferred by the appellants/convicts under Section 374(2)



of the Code of Criminal Procedure (hereinafter referred to as 'the Code') challenging the judgment of conviction dated 09.04.2024 and order of sentence dated 24.04.2024 passed by learned Additional District and Sessions Judge, VII, Vaishali at Hajipur in Sessions Trial No. 219 of 2020 (arising out of Kartaha P.S. Case No. 28 of 2020), whereby the concerned Trial Court has convicted the appellants/convicts for the offences punishable under Sections 395 of the IPC and sentenced them to undergo rigorous imprisonment for nine years and fine of Rs. 1,00,000/- and further convicted under section 412 of the I.P.C. and sentenced them to undergo R.I. for nine years and fine of Rs. 1,00,000/-, and further a fine of Rs. 2,00,000/- has been imposed and directed to submit to the concerned bank to compensate the loss and Rs. 50,000/- be deposited to the State government through Nazarat, in default of payment, learned trial court ordered them to undergo simple imprisonment for one year and six months respectively. Learned trial court further ordered that both the sentences shall run concurrently.



7. The brief case of prosecution, as it appears from written information of Priyanka Kumari (PW-4) who was working as a bank official at Uttar Bihar Gramin Bank, Branch- Ghataro that, on 18.03.2020, when the manager of the bank, namely, Sri Ravi Paswan (not examined) had gone for the recovery of the loan amount at around 11:30 AM at Kartahan, she along with one Deepa Kumari (Office Assistant) and one Chaukidar-Ram Nath Mahto were present in the bank. The work and operation of bank was on smooth running and about 8 to 10 customers were present in the bank for their respective bank related work. At around 02:50 PM, suddenly three criminals armed with pistol entered the bank and took the bank in their captive. They forced all the customers to sit in a line, took their mobile phones, threw it in the basin and threatened/forced them to sit or else they will be shot dead. Two of the criminals were standing at the main gate, who were keeping watch on the people entering and exiting the bank, who were also armed with pistol in their hand. One of the accused, who had entered the bank had covered his



face by handkerchief and was wearing jeans and shirt. Second accused was wearing blue shirt and pant and was carrying a bag. Both these criminals first went at the cash counter, where Deepa Kumari was sitting and took Rs.7,07,980/- (Seven lakh seven thousand nine hundred eighty rupees) and her maroon colored handbag in which there was her Aadhaar card and Rs.400/ cash along with bank I.D. card of Deepa Kumari and her bank passbook. The criminals took all her belongings along with looted money and put them in their bag. Thereafter, Deepa Kumari was asked by one of the criminal to hand over the keys of strong room which was denied by her, on which both the accused forcibly, on the gun point compelled her to open the strong room and took away Rs.1,00,500/- (one lakh five hundred rupees) and kept in their bag and thus, all the accused collectively committed the offence of bank robbery and took the looted money. They went out of the bank and fled away through their motorcycles and Innova car towards Lalganj. Because of nervousness, fear and sudden stroke of such unforeseeable incident, she



along with other staffs were unable to raise alarm. Total looted amount was worth of Rs. 8,84,080/- (Eight lakh eighty four thousand eighty).

8. On the basis of aforesaid *fardbeyan*, the police registered a case, as Kartaha P.S. Case No. 28 of 2020 on 18.03.2020 for the offence under Section 395 of the Indian Penal Code, where after investigation police submitted charge-sheet accordingly.

9. The learned Jurisdictional Magistrate, after perusal of record and materials collected during the course of investigation, took cognizance for the offences and after supplying police papers committed this case to the court of Sessions under Section 209 of the Cr.P.C. for its trial and disposal.

10. To substantiate its case, the prosecution has examined altogether six witnesses. They are:-

Prosecution Witnesses No(s).	Names
P.W. 1	Deepa Kumari (bank employee)
P.W. 2	Pappu Kumar @ Ajay Kumar (owner of the



	building)
P.W. 3	Ram Nath Mahto (Chaukidar)
P.W. 4	Priyanka Kumari (Informant)
P.W.-5	Santosh Kumar Pankaj (I.O.)
P.W.-6	Radhy Shyam Prasad (ASI)

11. Apart from the oral evidence, the prosecution has also relied upon following documents/ exhibits in order to prove the charges:-

Exhibit No(s).	List of documents
Exhibit-1	Fardbyan including signature of Priyanka Kumari over Fardbayan.
Exhibit-1/1	Signature of I.O. Santosh Kumar Pankaj over Fardbayan
Exhibit-2	Charge-Sheet
Exhibit-3	Seizure list related with accused Pintu @ Nikesh @ Ravan
Exhibit-4	Confessional statement of accused Pintu @ Nikesh @ Ravan
Exhibit-5	Writing of Santosh Kumar Pankaj (PW-5) over bag.
Exhibit-6	Writing of Santosh Kumar Pankaj (PW-5) over



	another bag.
Exhibit 7	Writing of Santosh Kumar Pankaj (PW-5) over third bag.
Exhibit 8	Photocopy of Malkhana Register (original register was brought to court) Sl. No. 107.

Exhibit No(s).	List of Materials
Exhibit-M-I	Identity card of Deepa Kumari
Exhibit-M-II to M-II/19	Currency 40 notes of Rs. 500/- worth 20,000/- Rs.
Exhibit-III	Grey color Bag
Exhibit-IV	Purse
Exhibit-V	Passbook of Deepa Kumar (PW-1)
Exhibit-VI	Aadhaar card of Priyanka Kumari (PW-4)

12. On the basis of evidence as surfaced during the trial, the learned trial court have examined the appellants/accused under Section 313 of the Code, where they completely denied their involvement by denying all incriminating evidences surfaced during the trial and stated that they were implicated with this case falsely and also claimed their complete innocence.



13. Neither any defence witness nor any document was exhibited in support of defence by appellants/convicts.

14. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellants/convicts preferred the present appeals.

15. Hence, these appeals.

**Argument on behalf of the
appellant/convict:**

16. Learned counsel appearing on behalf of appellants submitted that none of the prosecution witnesses identified the appellants. It is submitted that informant also failed to identify the appellants during T.I. parade conducted at Kartaha police station. Learned counsel further submitted that the whole bank activity was under watch of CCTV, but it was neither collected during course of investigations nor produced during the trial, which could be otherwise the best electronic evidence as to implicate the appellants /accused persons. It is submitted that the vehicle number as disclosed by prosecution



witness not appears to be recovered from the possession of appellants rather the vehicle which was recovered is of different registration number. It is also submitted that mere on the basis of confession and seizure list appellants were convicted with present case by ignoring available evidence which otherwise favors their acquittal. In view of aforesaid, it is submitted by learned counsel that the balance of appeal is in favour of appellants and thus the judgment of conviction as recorded by learned trial court is fit to be quashed/set aside.

17. Learned APP while opposing the prayer of appeal submitted that ID card of informant along with other documents was recovered from the possession of appellants along with cash of Rs. 20,000/-. It is submitted that the Innova car used in crime in question was also recovered from the appellants and therefore the conviction as recorded by learned trial court is fully justified and same is not required to be interfered.

18. I have perused the trial court records carefully and gone through the evidences available on



record and also considered the rival submissions as canvassed by learned counsel appearing on behalf of the parties.

19. As to re-appreciate the evidences, while dealing with present appeal, it would be apposite to discuss the evidences as available on record, which are as under :-

20. From the perusal of records, it appears that, **P.W.-4** is the most important witness of crime in question, who is also the informant of this case that is Priyanka Kumari. It appears from her examination-in-chief that accused persons entered into bank by covering their face and they were equipped with fire arms. They looted Rs. 7,07,980/- from the cash counter which was run by Deepa Kumari (PW-1) and also looted Rs. 1,00,500/- from the strong room. It appears from her depositions that for the said crime three persons entered into the bank. It was stated that two customers were taken inside and made hostages. All accused persons were said to be



between the age group of 22 to 25 years and their height was in range of 5 feet and 6 to 7 inches. All of them had covered their faces by cloth. She found one person with Apache motorcycle parked near to bank gate, but she could not identify any of the accused persons during TI Parade at Kartaha police station. She identified her written information which upon her identification was exhibited as exhibit-1.

20.1. Upon cross-examination, it appears that police called her for identifications of apprehended accused persons which she could not identify. It was stated that CCTV footage was collected by police during investigation. It appears from her deposition that she improved her version over written information that two customers were made hostage during the occurrence. She is completely silent that purse of PW-1, namely, Deepa Kumari was taken by accused persons during the occurrence. None identification of accused persons is an admitted position during TIP.



21. PW-1 is Deepa Kumari, who is also one of the bank employee and present in bank at the time of occurrence. It was deposed by her that she could not identify any of the accused persons as their face was covered. It was deposed that at the time of occurrence 8-10 customers were present over there. She deposed that the occurrence continued for about 10 minutes in which total of Rs. 8 lakhs was looted along with ID card and also one purse having two to four hundred rupees in cash. It was deposed that same statement was given by her to the police during investigation.

21.1. Upon cross-examination, it was stated that CCTV footage was working at the time of occurrence. She was present at her cash counter at the time of occurrence. She did not joined TIP.

22. PW-2 is Pappu Kumar @ Ajay Kumar. He is a nearby resident of bank where occurrence took place. He came to place of occurrence on public alarm. Though he supported the occurrence, he himself stated during



cross-examination that he is not the eye witness of the occurrence. Hence his testimony appears not relevant qua crime in case, as to connect appellants.

23. PW-3 is Ram Nath Mahto, who also appears to be the bank employee of Uttar Bihar Gramin Bank. It was deposed by him that accused persons took purse of a lady and also looted cash of Rs. 8 lakh. He disclosed the number of vehicle as 7835. He made an attempt to arrest the accused persons but they fled away towards Lalganj.

23.1. Upon cross-examination, it was stated by him that he could not identify any of the accused persons who entered into the bank. His duty was inside the bank. It was also stated by him that CCTV footage was working at that time and during occurrence total of 8 persons were present over there.

24. PW-5 is Santosh Kumar Pankaj, who appears to be the I.O. of this case. He lodged present case after receiving the written information from PW-4 as



Kartaha P.S. Case No. 28 of 2020 dated 18.03.2020. He received information on 01.04.2020 in night from SHO, Sadar that one Vishal Kumar(appellant of Cr. APP (SJ) No. 2594 of 2024) S/o Ram Naresh Singh was arrested with Splendor motorcycle having registration number BR-06-BH-7835 and also with one country made pistol and two live cartridges. On said information he went there and thereafter upon inquiry he confessed to be involved in present bank dacoity along with his friends namely, Sunny @ Suraj Singh, Nirantak, Mahesh Kumar, Rohit Kumar, Manish Kumar, Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan (appellant of Cr. APP (SJ) No. 2897 of 2024). He also confessed to be used seized motorcycle in aforesaid crime. The apprehended accused namely, Vishal Kumar assured to help in arrest of rest of the co-accused persons upon which he raided the house of the appellant Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan, who found there and arrested. Upon search of his house one carry bag of Navy blue color was found, which upon opening found with cash of Rs. 20,000/- each of Rs. 500/-



denomination and bank ID card of Deepa Kumari (PW-1). He also recovered Innova car bearing no. UP-16-BK-1455. He prepared seizure list of recovered items and obtained the signature of accused appellants which they did voluntarily. After completion of investigation he submitted charge-sheet, through charge-sheet no. 47 of 2020 dated 26.05.2020. It was stated that total of Rs. 8,08,480/- was looted during occurrence. He identified his signature on *Fardbeyan* which upon his identification was exhibited as exhibit-1 and exhibit- 1/1 respectively. He also identified the signature of appellant Pintu @ Pintu Kumar @ Nikesh @ Ravan @ Rawan on his confessional statement which upon his identification was exhibited as exhibit no. 4.

24.1. Upon cross-examination, it was stated that he didn't made any attempt to record the statement of accused appellants under Section 164 of the Cr.P.C. Confessional statement of appellant was not recorded before any executive officer and neither it was video graphed. It was stated that save and except confessional



statement of Pintu@Pintu Kumar@Nikesh@Ravan@
Rawan nothing incriminating appears available against
them and on the basis of said confessional statement he
submitted charge-sheet against accused appellants.

25. PW-6 is Radhe Shyam Prasad, who is ASI
and produced the seized material before the Court. He
opened first packet before court from where the ID card of
Deepa Kumari was found, showing employment no.
96221820 and from second bag forty currency note of Rs.
500/- denomination was produced before the Court. He
also produced one carry bag mentioning "AIR TYCOON"
which was of gray color, upon opening the same, one
ladies purse was found in which one passbook in name of
Deepak Kumari and Aadhaar card of one Priyanka Kumari
was available with Aadhaar no. 918006192851. He
identified the signature of concerned persons on all the
seizure list which upon his identification was exhibited as
exhibit P-5, P-6, P-7 and P-8 and thereafter aforesaid
items was exhibited as M-1 to M-6 respectively as material



exhibits.

25.1. Upon cross-examination, it was stated by him that from the sealed pack it is not clear that aforesaid material were seized from whom and on which date. He produced seized materials on court notice. It was also stated by him that upon perusal of currency note it cannot be said that from which bank it was looted. The serial number of currency note was also not mentioned in *Malkhana* register.

Conclusion:-

26. It appears from the aforesaid evidences that several major contradictions surfaced during trial which can be summarized as under:-

(i) None of the prosecution witnesses identified the appellants. PW-4, namely, Priyanka Kumari who is the informant of this case even failed to identify the accused persons during the TIP.

(ii) Informant stated nothing during the trial that any ladies purse having cash and ID etc. was looted



from bank during the occurrence, contrary to her FIR.

(iii) The motorcycle number as deposed by PW-3, namely, Ram Nath Mahto i.e., 7835 not appears to be recovered from possession of appellants, as registration number is incomplete.

(iv) The Innova vehicle as said to be recovered from the possession of appellants cannot be connected with crime in question as no registration number of Innova was supplied by informant or by any other witnesses.

(v) PW-1, namely, Deepa Kumari failed to deposed whether ID card or purse belongs to her or PW-4, namely, Priyanka Kumari. She also failed to deposed that any ladies purse was looted during the occurrence.

27. Recovery of aforesaid items, in view of discussed contradictory testimony of prosecution witnesses including informant appears unsafe to connect appellants/accused with crime in question.

28. Accordingly, the appeal stands allowed.

29. The impugned judgment of conviction



dated 09.04.2024 and order of sentence dated 24.04.2024 passed by learned Additional District and Sessions Judge, VII, Vaishali at Hajipur in Sessions Trial No. 219 of 2020 (arising out of Kartaha P.S. Case No. 28 of 2020) is, hereby, set aside.

30. Accordingly, above named appellants are acquitted from the charges levelled against them.

31. If the appellants are in custody in connection with this case, they are directed to be released forthwith, if not required in any other case. Fine, if any paid, be returned to appellant immediately.

32. Office is directed to send back the trial court records along with a copy of the judgment to the court below forthwith.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.11.2024
Transmission Date	14.11.2024

