IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5137 of 2024

CNR No. BRHC011109342024

Arising Out of PS. Case No.-977 Year-2024 Thana- Excise P.S. District- Saharsa

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Ramu Sada, S/O Khusilal Sada, R/O Village- Nayanagar, Ward No. 14, P.S- Mahishi, Distt.- Saharsa.

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Maya Shankar Mishra, Adv.
Mr. Nagendra Upadhyay, Adv.
For the State : Mr. Syed Ashfaque Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

9 28-10-2026 Mr. Maya Shankar Mishra, learned counsel for the appellant and Mr. Syed Ashfaque Ahmad, learned APP for the State are present.

2. It is submitted by the appellant's counsel that he has no information regarding whereabouts of the appellant.

3. Learned APP appearing on behalf of the State submits that the appellant was granted provisional bail by the trial court. Thereafter, Coordinate Bench of this Court, vide order dated 27.02.2025, directed the appellant to file a surrender certificate upon expiry of the period of provisional bail which was cancelled. However, no surrender certificate has been filed on behalf of the appellant till date. Learned APP further submits that in view of Rule 8 of Chapter XII, Part- II of Part- A of the

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Rules of the High Court at Patna, 1916, "*No appeal against conviction application or motion shall be heard for admission unless the accused has surrendered to the order of the court below convicting him to a sentence of imprisonment for a term and an intimation to this effect has been filed except in case where the appellant has been released on bail by the trial court*.". Learned APP lastly submits that as the appellant is neither on bail nor in judicial custody and there is no dispute in this regard, so, the present appeal is not maintainable and is liable to be dismissed at the stage of admission itself.

4. Considering the above submissions advanced by learned APP as well as having taken into account the Rule 8 of Chapter XII, Part- II of Part- A of the Rules of the High Court at Patna, 1916, this Court finds substance in the above submissions and the appeal filed by the appellant is hereby dismissed as being not maintainable at this stage.

5. Let a letter be sent to the Director General of Police, Bihar to take serious steps for ensuring the appellant to be taken into judicial custody at the earliest.

(Shailendra Singh, J)

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