

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 897 of 2002

[Against the Judgment of conviction and Order of sentence dated 10.12.2002 passed by learned Additional District & Sessions Judge, F.T.C.-II, Bermo at Tenughat, in Sessions Trial No. 175/90 / 141/02]

Gopi Mahto, S/o Shri Girdhar Mahto, resident of
Barmashiya, P.S. – Jaridih, District - Bokaro.

... .. **Appellant**

Versus

The State of Jharkhand **Respondent**

.....

For the Appellant : Mr. Sankalp Goswami, Advocate.

For the Respondent : Mrs. Nehala Sharmin, Spl.P.P.

.....

P R E S E N T

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 21.08.2025 Pronounced on 15.09.2025

Per Pradeep Kumar Srivastava, J.

- 1.** Heard Mr. Sankalp Goswami, learned counsel for the appellant and Mrs. Nehala Sharmin, learned Spl.P.P. for the State.
- 2.** The instant criminal appeal is directed against the judgment of conviction and order of sentence dated 10.12.2002 passed by learned Additional District & Sessions Judge, F.T.C.-II, Bermo at Tenughat, District – Bokaro in S.T. No. 175/90 / 141/02, whereby and whereunder, the appellant has been held guilty and convicted for the offence under Section 302 of the I.P.C. and sentenced to undergo R.I. for life.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on the basis of fardbeyan of one Tulsi Mahato (P.W.-6) recorded by A.S.I. B.Tanti Sector-IV P.S. at Bokaro General Hospital on 05.03.1990 at 11:30 AM, Jaridih P.S. Case No. 18 of 1990 corresponding to G.R. No. 145 of 1990 was registered for the offence under Section 324, 307/34 of I.P.C. and under Sections 302 / 34 of the I.P.C., which was added vide order dated 20.03.1990. It is alleged that on 04.03.1990 at about 4:30 P.M., the informant along with his father Jyoti Mahato (since deceased) and uncle Girdhari Mahato were talking in their courtyard. The uncle of the informant was asking for a sambal to fix a peg, which was denied, on this informant's uncle's son Gopi Mahto and son-in-law Kharu Mahto also arrived there. Gopi was armed with tangi and aim to assault to father of the informant by tangi on neck, which was warded off by his father by turning his head, but it causes injury on forehead and ruptured the same, due to said injury, the father of the informant fell down and became unconscious. The informant has further alleged that when his father fell down after sustaining injuries, then the accused persons also chased to assault him, but he was saved by Gyan Mahto (PW-7)

and Kalipad Mahto (P.W.-8), but the accused persons did not obey the witnesses and assaulted to his father by tangi. When the informant was chased for assaulting him by tangi then he fled away with the assistance of Gyan Mahto (P.W.-7). It is alleged that during course of treatment at Bokaro General Hospital, injured father of the informant died.

4. After completion of investigation, charge sheet was submitted against Girdhari Mahto and Gopi Mahto (appellant), who denied the charges and claimed to be tried.
5. In course of trial, the prosecution has examined altogether 10 witnesses and also adduced following documentary evidence:-

- | | |
|-------------|---|
| Exhibit-1 | : FIR. |
| Exhibit-2 | : Fardbeyan of Tulsi Mahto. |
| Exhibit-3 | : Signature of Arjun Mahto (P.W.-4) on Inquest Report of Jyoti Mahto. |
| Exhibit-3/1 | : Signature of Janki Sao on Inquest Report of Jyoti Mahto. |
| Exhibit-4 | : Signature of Tulsi Mahto on his Fardbeyan. |
| Exhibit-5 | : Complete Fardbeyan of Tulsi Mahto. |

Exhibit-6 : Seizure List of blood-stained soil seized from the place of occurrence.

6. On the other hand, no oral evidence has been adduced by the defence rather fardbeyan of one Juthan Mahto (P.W.-9) dated 06.03.1990 for the same occurrence has been brought on record, which has been marked as **Exhibit-A**. The case of the appellant is denial from the occurrence and false implication. It is also pleaded that appellant Gopi Mahto is CCL employee and at the time of occurrence, he was not present in his house, rather he returned later and implicated in this case due to enmity.
7. After conclusion of trial, both the appellants were held guilty and sentenced for the offence under Section 302 of the I.P.C. with aid of Section 109 of I.P.C.
8. Learned counsel for the appellant assailing the impugned judgment has vehemently argued that altogether 10 witnesses were examined by the prosecution to substantiate the charges leveled against them, out of them, P.W.-1, Ashish Kumar Ray and P.W.-2 Ajay Kumar Sinha are Advocate Clerks and formal witnesses.
9. It is further submitted that Chinta Devi (P.W.-3) is the wife of the informant (PW-6), Gyan Mahto (P.W.-7),

Kalipado Mahto (P.W.-8), and Juthan Mahto (P.W.-9) have not supported the prosecution story as stated by informant and declared hostile or tendered, although they are named in the FIR as eye-witnesses of occurrence. P.W.-10 Ramanand Singh is the Investigating Officer of this case. The Doctor, who has conducted autopsy on the dead body of the deceased, has not been examined. P.W.-4 Arjun Mahato and P.W.-5 Janki Sahu are witnesses of inquest report.

10. Therefore, the eye-witnesses of the occurrence are only P.W.-3 & P.W.-6, who happens to be daughter-in-law and son of the deceased and highly interested witnesses. The testimony of P.W.-3 & P.W.-6 does not find corroboration from the evidence of other witnesses to whom the incident was disclosed at the earliest by these witnesses.

11. It is further submitted that the FIR was lodged on the next day of occurrence at about 11:00 AM after due deliberation about the actual assailant of the deceased. Real fact is that the appellant is CCL employee and on the date of occurrence, he was not present at his home and this fact is also corroborated by several prosecution witnesses, whose testimony cannot be doubted.

12. It is further submitted that the genesis, manner and part of the body aimed for giving axe blow has not

been conclusively proved by the prosecution. The cause of death is also not proved due to non-examination of the Medical Officer, who has conducted the autopsy of the dead body of the deceased. Therefore, the prosecution story is absolutely doubtful as regard complicity of present appellant, rather there was specific allegation against the father of the appellant namely, Girdhari Mahto with whom scuffle took place with the deceased and in that course of incident in a sudden fight, the deceased was assaulted by Girdhari Mahto (since deceased). The implication of the appellant Gopi Mahto is after thought and based on due deliberation and concoction by the informant and his wife. Other eye-witnesses of occurrence, whose presence is mentioned in the FIR, have been examined as P.W.-7, P.W.-8 and P.W.-9 specifically stated that only Girdhari Mahto is assailant of the deceased. This aspect of the case has not been considered by the learned trial court and no reason has been recorded for disbelieving the evidence of P.W.-7, P.W.-8 and P.W.-9, who immediately approached to the place of occurrence and it was also disclosed to them by P.W.-3 and P.W.-6 that Girdhari Mahto has assaulted to the deceased on sudden scuffle in connection with demand of sambal. Therefore, it is prayed that the

impugned judgment and order may be set aside and this appeal may be allowed.

13. Per contra, learned Spl.P.P. appearing for the State while refuting the aforesaid contentions raised on behalf of the appellant has argued that the learned trial court has very wisely and aptly analyze and appreciate the evidence of eye witnesses i.e. P.W.-3 and P.W.-6. There is no reason to falsely implicate the appellant. The trial court has committed no illegality or infirmity in arriving at the guilt of the appellant for the offence of murder of the deceased. This appeal has no merit and fit to be dismissed.

14. We have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of respective parties.

15. It appears that altogether 10 witnesses were examined by the prosecution to substantiate the charges leveled against the accused persons.

16. P.W.-1 : Ashish Kumar Rai is an Advocate Clerk and a formal witness, who has proved the formal F.I.R. as Exhibit-1.

17. P.W.-2 : Ajay Kumar Sinha is also an Advocate Clerk and a formal witness, who has proved the endorsement of the then O/C of Sector-IV Bokaro P.S. for registration of F.I.R. as Exhibit-2.

18. P.W.-3 : Chinta Devi is the wife of the informant Tulsi Mahto (P.W.-6) and eye witness of the occurrence. According to her evidence, it was Sunday evening at about 4:30 P.M. She was sitting on Chaukhat of her Courtyard along with her husband. She has further alleged that there was a dispute regarding sambal started going on between her father-in-law Jyoti Mahto and elder father-in-law Girdhari Mahto. Meanwhile, Gopi Mahto, son of Girdhari Mahto came there and ask his father as to why scuffle is going on, then Girdhari Mahto told to kill Jyoti Mahto, upon this, Gopi Mahto went inside the house, brought a tangi and gave a tangi blow on the head of her father-in-law Jyoti Mahto, causing severe injuries and he became unconscious. Thereafter accused persons fled away. Her husband brought the injured on auto-rickshaw to Bokaro General Hospital, where her father-in-law died.

In her cross-examination, he has declined to know Juthan Mahto and Gyan Mahto, although her marriage was solemnized 6-7 years ago, although Juthan Mahto is own brother of the deceased. Her statement was recorded by police after two days of the occurrence. She also admits that Gopi Mahto works in Jarandih Colliery and on the date of occurrence, he

returned from his duty. According to her, at the time of occurrence, she along with her husband was present in the home. She also admits that after 1-1½ hours of the occurrence, her father-in-law was brought to the hospital. None of the neighbours came to her courtyard at the time of occurrence.

- 19. P.W.-4 Arjun Mahto** is the witness of the Inquest Report, which was prepared in his presence and proved his signature on the Inquest Report as Exhibit-3.
- 20. P.W.-5 Janki Sao** is also witness of the Inquest Report and proved his signature on the Inquest Report as Exhibit-3/1.
- 21. P.W.-6 Tulsi Mahto** is another eye-witness of the occurrence, who happens to be informant of the case. His fardbeyan was recorded at the earliest at Bokaro General Hospital by the police on 05.03.1990 at 11:30 A.M. According to evidence, on 04.03.1990 at 4:30 P.M., he along with his wife was standing in the courtyard. A dispute regarding sambal was going on between his father and uncle Girdhari Mahto. His father was declining to give the sambal to his uncle, as such, scuffle was going on, meanwhile, Gopi Mahto along with his brother-in-law Kharu Mahto came there then his uncle Girdhari Mahto ordered to kill

Jyoti Mahto by firing. Upon this, Gopi Mahto went inside the house and brought out a tangi and gave tangi blow on neck of his father with intention to kill him, then his father went upon a tangi blow, causing injury on head, due to which his father fell down and became unconscious. Thereafter, accused persons fled away. He has further deposed that he brought his father to Bokaro General Hospital, where police arrived on next day i.e. 05.03.1990 and his statement was recorded. He has proved his signature and identified the same, marked as Exhibit-4. Thereafter, his father died. The police sent the dead body for post-mortem at Sub Divisional Hospital, Chas and also recorded re-statement.

In his cross-examination, this witness clearly states that his father Jyoti Mahto had three brothers namely, Girdhari Mahto, Bhushan Mahto and Juthan Mahto and all are living together in the same house, situated at same place. He further admits that within 10-15 minutes, he brought a tempo and went to Bokaro General Hospital along with his injured father, which is situated at a distance of 30 Km. He further admits that his uncle Juthan Mahto has come to Bokaro General Hospital along with him. He further admits that on the date of occurrence, Gopi Mahto

was sitting ideal in the house and working nowhere. He further admits that the scuffle between his father and Girdhari Mahto last up to 10 minutes. He was also present there, till the inflicting of tangi blow to his father. He further admits that Gopi Mahto came from outside and enquired to his father about the matter, then went into his room. He further admits that on the date of occurrence since 7:30 PM to next day at about 11:30 A.M., he was in hospital to look after his father. He has denied the suggestion of defence that he has not seen the occurrence, rather returned to home later on and along with his uncle Juthan Mahto came to hospital, where at the earliest statement of Juthan Mahto was recorded by the police and he has manipulated a false story against the accused Gopi Mahto.

22. P.W.-7 Gyan Mahto. He has deposed that on hearing hulla from his house, he went towards the house of Jyoti Mahto and saw that scuffle was going on between Jyoti Mahto and Girdhari Mahto for a sambal. Both were snatching sambal from each other, which was taken by Jyoti Mahto, who gave sambal blow to Girdhari causing injury on his hand then Girdhari Mahto entered into his room and brought out a small axe and gave an axe blow on head of the

Jyoti Mahto. This witness has been declared hostile by the prosecution to the extent of contradiction that his statement before the police was recorded under Section 161 of the Cr.P.C., wherein he has stated that Tulsi and his wife told him that a dispute about sambal was going between Girdhari Mahto and Jyoti Mahto, meanwhile, son of Girdhari Mahto namely, Gopi Mahto arrived and on order of his father, Gopi Mahto has given axe blow to Jyoti Mahto, due to which he became unconscious and in the hospital, in course of treatment, he died.

In his cross-examination by defence, this witness states that on the date of occurrence Tulsi Mahto came after some time of occurrence and Gopi Mahto was on his duty at CCL, Colliery, Jarangdih, which is situated at a distance of 10-11 Km. from his village. He also admits that his statement was not recorded by any police officer, rather Dy. S.P. has recorded his statement.

23. P.W.-8 Kali Mahto has stated that his house is situated at a distance of about 170 steps from the house of Jyoti Mahto. He heard some hulla coming from the house of Jyoti Mahto, then he went there and saw that Jyoti Mahto was injured on his head, which was stitched by cloth. Jyoti Mahto was being

assisted by wife of Gyani Mahto and Tulsi Mahto. He asked about the occurrence then wife of Tulsi Mahto disclosed that Girdhari Mahto has given tangi blow on head of Jyoti Mahto. Thereafter, this witness went to his house and brought Dettol and applied on head of the injured and laid down him on a cot. This witness has also been declared hostile by the prosecution towards his statement under Section 161 Cr.P.C. wherein he has stated that Tulsi Mahto and his wife disclosed to him just after the occurrence that there was a dispute between Jyoti Mahto and Girdhari Mahto for a sambal, meanwhile, Gopi Mahto came there and on order of Girdhari Mahto gave a tangi blow on the head of Jyoti Mahto causing severe cut injury on head, due to which, he became unconscious.

In his cross-examination by the defence, he admits that he usually lives in Dhanbad and some days prior to occurrence, he has come to his home. On the date of occurrence, Gopi Mahto was not present and he was on duty at Jarangdih Colliery.

24. P.W.-9 Juthan Mahto is own brother of the deceased. Although, this witness has been tendered by the prosecution, but in cross-examination by defence, he has specifically stated that at the earliest his

statement was recorded by the police at Bokaro General Hospital in presence of other family members. Thereafter, statement of his nephew Tulsi Mahto and his wife were recorded by police. He has further stated that Gopi Mahto was working at Jarangdih Colliery from before the occurrence and used to come to house after some interval about 6-7 weeks. On the date of occurrence, he was not present, rather he was at Jarangdih on his duty. He has seen the occurrence and Tulsi Mahto arrived later at the place of occurrence.

25. P.W.-10 Ramanand Singh is the Investigating Officer of this case. According to his evidence, on 06.03.1990, he was working as an Officer-in-charge of Jaridih Police Station. On that day, fardbeyan of one Tulsi Mahto recorded by ASI B. Tanti of Sector-IV police station, Bokaro was received for registration of case and there was endorsement for registration of case put by S.I. Guneshwar Prasad Singh of Sector-IV P.S., which is marked as Exhibit-5. Accordingly, Jaridih P.S. Case No. 18/90 dated 06.03.1990 u/s 324, 326, 307/34 of the I.P.C. was registered and he took charge of the investigation. He proceeded to the place of occurrence, where Chinta Devi, wife of informant met him and statement was recorded and he

inspected the place of occurrence, which is courtyard of house of informant. Tulsi Mahto having main door towards East, where he saw blood-stained earth and it was disclosed by Chinta Devi (P.W.-3) that her cousin bhaipur Gopi Mahto has assaulted to her father-in-law and blood is laying on earth. He seized some blood-stained earth in presence of witnesses, Bharat Chandra Sao and Vakil Prasad Nayak, which is marked as Exhibit-4. He has recorded the statement of other witnesses acquainted with the facts of the case, arrested accused persons and finding sufficient evidence submitted charge-sheet for the offence under Sections 324, 326, 307/34 of the I.P.C.

In his cross-examination, this witness admits that from the place of occurrence, police station is situated at a distance of 15 Km. Prior to 6th March, 1990, receiving the fardbeyan of informant, he had no knowledge about the occurrence from any source. He also went to record the statement of injured at Bokaro General Hospital, but due to huge police force administration, he did not go there.

He has denied the suggestion of defence that prior to receipt of fardbeyan of Juthan Mahto (brother of deceased) on 07.03.1990 from Sector – IV Police

Station, Bokaro, he had no knowledge about the occurrence, rather he admits that the fardbeyan of Juthan Mahto was registered as S.D. Entry No. 123 dated 07.03.1990, which is marked as Exhibit-A on the request of the defence. He has also recorded the statement of Gyan Mahto, who happens to be brother of the deceased. He further admits that on the date of occurrence, accused Gopi Mahto was working at CCL, Jarangdih and he has also conducted raid for his arrest at Jarangdih. He has not sent the blood-stained earth for chemical examination at FSL.

- 26.** We have given anxious consideration to overall factual spectrum of the case. It appears that in his fardbeyan, the informant (P.W.-6) has clearly stated that the tangi blow was given by Gopi Mahto, but the scuffle arose between Jyoti Mahto (father of the informant) and Girdhari Mahto in connection with demand of a sambal. The informant (P.W.-6) has specifically claimed in the FIR itself that the accused persons also chased him to assault, but he was saved by Gyan Mahto and Kali Mahto, P.W.-7 & P.W.-8 respectively. He further states that Kali Mahto and Gyan Mahto also intervened and forbade the accused persons from assaulting to his father inspite of that, the accused persons assaulted his father by tangi. He has also

claimed that he managed to flee away from the place of occurrence with the help of Gyan Mahto (P.W.-7). Thereafter, the injured father of the informant was brought to Bokaro General Hospital immediately where his fardbeyan was recorded. In the FIR, there is no whisper about presence of P.W.-3 Chinta Devi (wife of informant) at the time of happening of the occurrence.

- 27.** The informant Tulsi Mahto (P.W.-6) in his evidence during trial has stated that on the date of occurrence at about 4:30 PM, he along with his wife was standing in the courtyard when the occurrence took place. He further states that Girdhari Mahto was scuffling, meanwhile, Gopi Mahto and son-in-law of Girdhari Mahto namely, Kharu Mahto also came there then Girdhari Mahto asked Gopi Mahto to kill Jyoti Mahto by firing, but Gopi Mahto came with a tangi and gave a tangi blow on his father with intention to kill him. Thereafter, accused persons fled away. He has very cleverly omitted the name of eye witnesses, who were present on the spot as mentioned in the FIR namely, Kharu Mahto and Gyan Mahto, but admits in his cross-examination that he along with Juthan Mahto (elder brother of the deceased) came to Bokaro General Hospital on tempo.

- 28.** The testimony of P.W.-6, if compared with the testimony of his wife Chinta Devi (P.W.-3), it emerges that she was also sitting on chaukhat of her courtyard along with her husband and scuffle was going on between her father-in-law Jyoti Mahto and Girdhari Mahto. Meanwhile, Gopi Mahto arrived with a tangi and assaulted Jyoti Mahto on direction of Girdhari Mahto to kill him by tangi.
- 29.** It is admitted fact that Jyoti Mahto (deceased) has three other real brothers namely, Girdhari Mahto, Bhushan Mahto and Juthan Mahto, but she has declined to identify Juthan Mahto and Gyan Mahto, although her marriage was solemnized about 6-7 years ago from the date of occurrence. She also admits that police have recorded her statement after two days of occurrence. It is also admitted that accused Gopi Mahto returned from duty on the same day. She has also given a serious jolt to the specific testimony of her husband by saying that at the time of occurrence none of the neighbours came to her courtyard to intervene and save them.
- 30.** On the other hand, contrary to it, P.W.-6 clearly states that his neighbours and family members Kali Pad Mahto and Gyan Mahto were present on the spot and they intervened and saved him, but the accused

Gopi Mahto assaulted his father by tangi on his head. In the above circumstances, the testimony of P.W.-3 itself appears to be doubtful in view of the fact that earliest statement was given by the informant before the police while recording his fardbeyan.

31. In the above context, we have to consider the evidence of P.W.-7 Gyan Mahto, who has clearly stated that Girdihari Mahto and Jyoti Mahto were quarrelling for sambal, meanwhile, Girdhari Mahto entered into the room and brought axe and gave an axe blow on the head of Jyoti Mahto. This witness has been declared hostile only to the extent that he has attributed culpability against Girdhari Mahto alone and not to the Gopi Mahto. There is no doubt that this witness is also interrogated by the Investigating Officer during investigation under Section 161 Cr.P.C. and the Investigating Officer (P.W.-10) is also examined this case, but above material contradiction appearing in the evidence of this witness has not been got explained by the prosecution by the Investigating Officer. Therefore, there remains no reason to disbelieve the testimony of this witness.

32. Similarly, P.W.-8 Kali Mahto has also been declared hostile only on the point that he has attributed the culpability of Girdhari Mahto, who gave axe blow to the deceased, resulting in his death.

- 33.** It is quite surprising that P.W.-7 Gyan Mahto, P.W.-8, Kali Mahto and P.W.-9 Juthan Mahto, who happens to be close relative and residing adjacent to the place of occurrence and admit their presence at the place of occurrence at the relevant time and declared hostile by prosecution only to the extent that P.W.-3 Chinta Devi, wife of the informant, has disclosed to them about the occurrence that a dispute regarding sambal was going on between Girdhari Mahto and her father-in-law Jyoti Mahto, meanwhile, Girdhari Mahto brought out a tangi and assaulted on head of her father-in-law and they have not named the accused Gopi Mahto as assailant of the deceased, but the prosecution has not drawn attention of the Investigating Officer (P.W.-10) towards such a vital contradiction appearing in the evidence of aforesaid witnesses. Therefore, the testimony of these witnesses cannot be bruised aside from consideration.
- 34.** Attention of Investigating Officer (P.W.10) has not been drawn against the material contradictions appearing in the evidence of this witness to the extent of involvement of Gopi Mahto. At this juncture, the evidence of P.W.-9 Juthan Mahto, whose presence is also admitted at the relevant time of occurrence cannot be ignored, although his fardbeyan was also

recorded in this case (Exhibit-A), which appears to be hit by provisions of Section 162 of the Cr.P.C., but in his evidence before Court, he has said the same thing that the Girdhari Mahto was assailant of the deceased. The occurrence took place due to scuffle between Girdhari Mahto and Jyoti Mahto in connection with demand of a sambal and Girdhari Mahto gave an axe blow to the deceased. The testimony of P.W.-9 has also not been rebutted by the prosecution in any manner.

- 35.** From the above critical analysis of the testimony of ocular witnesses, there is no reason to discredit the testimony of P.W.-7, 8 & 9 as regards the genesis, manner, place, mode of assault and involvement of accused persons.
- 36.** It further transpires that the testimony of P.W.-3 and P.W.-6 suffers from suppression / concealment of material facts. In the FIR, presence of P.W.-7, 8 & 9 is specifically mentioned, but during trial, the presence of these witnesses has been declined and P.W.-3 even resiled from identifying her own elder father-in-law Juthan Mahto (P.W.-9).
- 37.** It is also admitted fact that the deceased was brought to Bokaro General Hospital on the very date of occurrence in the night, but statement of the

informant was recorded in the next day morning at 11:00 AM. Therefore, there was every chance and opportunity to the informant to involve the son and son-in-law of the main accused Girdhari Mahto in this case.

38. It is admitted that the appellant Gopi Mahto was a CCL employee at the relevant time, but the informant deliberately and in a hostile manner stated that Gopi Mahto is sitting idle at home and does nothing. The learned trial court has whispered nothing in the entire judgment as to why the testimony of P.W.-7, P.W.-8 and P.W.-9, whose presence is admitted at the time of lodging of FIR should be discarded or disbelieved. The non-consideration of testimony of P.W.-7, P.W.-8 and P.W.-9 in context of material contradictions appearing in the evidence of P.W.-3 and P.W.-6 as discussed above, the learned trial court has committed serious error of law and arrived at wrong conclusion.

39. In view of above discussion and reasons, we find merits in this appeal and substance in the point of argument raised on behalf of appellant. The prosecution itself has produced two distinct and different story as regards actual involvement in the alleged offence of the appellant. Therefore, the view which goes in favour of the accused must be preferred

and accepted. Accordingly, the judgment of conviction and order of sentence of the appellant passed by the learned trial court is hereby set aside. The appellant is acquitted from the charges leveled against him.

40. Accordingly, this appeal is allowed.

41. The appellant is on bail, as such, he is discharged from liability of bail bond and sureties shall also discharged.

42. Pending I.A., if any, stand disposed of.

43. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated, the 15th September, 2025.

Sunil / **N.A.F.R.**