

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. Appeal (S.J.) No.200 of 2022**

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|------------------------|-----|------------|
| 1. Naresh Yadav        |     |            |
| 2. Ashok Yadav         |     |            |
| 3. Rajendra Yadav      | ... | Appellants |
| -Versus-               |     |            |
| The State of Jharkhand | ... | Respondent |

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**CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD**

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| For the Appellants | : Mr. Arvind Kumar Choudhary, Advocate |
| For the State      | : Mr. Prabir Kumar Chatterjee, A.P.P.  |

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Order No.03

Dated 06<sup>th</sup> May, 2022

**I.A No.3214 of 2022**

The present Interlocutory Application No.3214 of 2022 has been filed by the appellants for suspension of sentence and grant of bail during the pendency of this criminal appeal.

2. Heard learned counsel for the appellants and the learned A.P.P for the State.

3. One another supplementary affidavit filed on 04.05.2022 on behalf of the appellant No.2 and 3 for grant of provisional bail to the appellant Nos.2 and 3 on account of marriage of their respective daughter and son on 13.05.2022 and 12.05.2022 respectively.

4. It is submitted by the learned counsel for the appellant that during the pendency of this criminal appeal, the marriage of the daughter of the appellant No.2 namely, Ashok Yadav and the son of the appellant No.3 namely, Rajendra Yadav are fixed on 13.05.2022 and 12.05.2022 respectively.

5. It is submitted that the appellants are innocent. It is submitted by the learned counsel for the appellants that there is allegation of alleged firing upon the appellant No.2 and no specific overt act has been attributed against the appellant No.1 Naresh Yadav and the appellant No.3 Rajendra Yadav. It is further submitted that there is a case and counter-case between both the sides for the last several years and even the informant has admitted during his cross-

examination 5-6 cases are pending between both the sides. It is further submitted that author of the F.I.R namely, Baleshwar Yadav has not been examined, though the Informant and other witnesses have stated that he is alive and was present in the village. It is further submitted that the Informant has also stated to have put Thumb Impression in the F.I.R, whereas, from perusal of the F.I.R, it would reveal that it was signed by the Informant and thus, there is contradiction in the F.I.R and his evidence and the written application appears to be doubtful. It is further submitted that no injury has been found on any person from the side of Informant and no injury report has been brought on record on behalf of the prosecution. It is submitted that the appellant No.2 namely, Ashok Yadav has remained in custody from 20.08.2010 to 15.02.2011 and the appellant No.3 Rajendra Yadav was in custody from 01.03.2011 to 08.04.2011 and after their convictions, they are in custody since 28.02.2022 and hence, they may be enlarged on bail.

6. On the other hand, learned counsel for the State has opposed the prayer for bail and has further submitted the Informant has fully supported his case. It is further submitted that the appellant No.2 had fired at the family members of the Informant but the informant and his family members saved themselves. Learned counsel for the State has further submitted that the other witnesses had been examined as P.W.1 and P.W.3 who have supported the allegation of firing between both the sides. It is further submitted that Investigating Officer has been examined as P.W.6 and he has also recovered one cartridge from the house of the Informant and hence, the prayer for bail is fit to be rejected.

7. Perused the Lower Court Records and considered the submissions of both the sides.

8. The appellants have been convicted by the learned District & Additional Sessions Judge-I, Deoghar in S.T Case No.84 of 2013 for

the offence under Section 307 read with section 149 of the Indian Penal Code and has been sentenced to undergo Rigorous Imprisonment for a period of four (04) years each and to pay a fine of Rs.10,000/- each. The appellants have also been convicted for the offence under Section 148 of the Indian Penal Code and has been sentenced to undergo Rigorous Imprisonment for a period of one (01) month and all the sentences have been directed to run concurrently.

9. It transpires from the F.I.R that the appellant No.2 namely, Ashok Yadav is said to have fired at the Informant but he saved himself behind the door and the appellant are alleged to have further pelted stones and damaged the entire bricks of the roof by Lathi and Stones. It also transpires that there is no specific allegation has been levelled against the appellant Nos.1 and 3. It further transpires that the F.I.R was signed by one Nunlal Mahto who is the informant of this case. However, the informant namely, Nunlal Mahto, who was examined before the learned trial court and in which, he has stated at paragraph No.2 that he has filed written application through Baleshwar Yadav which was written by Baleshwar Yadav and he put his Thumb Impression. However, the said Baleshwar Yadav has not been examined in this case. It also transpires from the evidence of P.W.2 that during his cross-examination he has admitted at paragraph No.5 that there are 5-6 cases are pending between both the sides. He has also stated at paragraph No.8 that he is not aware as to what were written in the F.I.R and he never tried to ascertain as to what was written in the F.I.R. It further transpires that P.W.1 has also admitted during his cross-examination at paragraph No.6 that six cases are pending between the parties. It also transpires that the P.W.4 and P.W.5 have been declared hostile. It transpires that the Investigating Officer (i.e, P.W.6) of this case had seized blank cartridge from the door of the Informant. However, P.W.6 has not

stated as to what damaged had been caused at the roof and house of the Informant, although it has been stated P.W.1 and P.W.2 that the roof was damaged due to stone pelting. It also transpires that no injury report of any injured person has been brought on record on behalf of the prosecution. It also transpires that no fire arm injury has been caused and no charges under Section 27 of the Arms Act has been framed by the learned trial court.

10. Considering the facts and circumstances of this case, I am inclined to suspend the sentence of the appellants and the appellants are directed to be released on bail, during the pendency of the appeal, on their furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge-I, Deoghar in connection with S.T Case No.84 of 2013, arising out of Jasidih P.S Case No.181 of 2009, corresponding to G.R No.719 of 2009.

11. Thus, I.A No.3214 of 2022 stands allowed and is accordingly disposed of.

**(Sanjay Prasad, J.)**