

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J) No. 374 of 2025

Nakchedi Sah @ Sao Appellant

Versus

1.The State of Jharkhand
2.Ashok Kumar Gupta Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Lakhan Chandra Roy, Advocate
For the State : Mr. Shiv Shankar Kumar, APP

ORAL ORDER IN COURT

05/Dated: 20th January, 2026

I.A. No.4004 of 2025

This Criminal Appeal has been filed on behalf of the appellant challenging the judgment of conviction dated 22.02.2025 and Sentence dated 24.02.2025 passed by Sri Manoj Kumar Tripathi, learned Additional Sessions Judge-II, Nagar Untari, Garhwa in S.T. No.132 of 2022, arising out of Bhawnathpur P.S. Case No.81 of 2021 by which the appellant has been convicted for the offence under Section 304 Part II and 287 of IPC and sentenced to undergo R.I for five (05) years and to pay the fine of Rs.10,000/- and R.I. for six (06) months respectively.

2. I.A. No.4004 of 2025 has been filed on behalf of the appellant under Section 430(1) of the BNSS, 2023 for suspension of sentence and for grant of bail, during pendency of the appeal.

3. Learned counsel for the appellant submitted that the impugned judgment and sentence passed by the learned Court below is illegal, arbitrary and not sustainable in law. It is submitted that the appellant is innocent and has committed no offence. It is submitted that the appellant has taken the house

of one Sita Ram Sah on rent for running Oil Mill. It is submitted that as a matter of fact the ditch near the oil mill was filled by the landlord and the Frock of the deceased girl was caught by the pulley and due to which she died. Although the appellant requested the landlord several times to ensure that his pulley may run properly but it was not taken care by his landlord. It is submitted that the appellant is in custody since 22.02.2025 and hence he may be enlarged on bail.

4. On the other hand, learned counsel for the State has opposed the prayer for bail. It is submitted that due to act of the appellant, the deceased girl namely Aradhya Kumari who was aged 10 years had died. It is submitted that the P.W-5 is the informant of this case and he has fully supported his case and other witnesses P.W-1, P.W-2 and P.W-3 namely Ramlakhan Prasad Gupta, Shioshankar Prasad Gupta, Shukala Sah @ Shukla Kumar have also supported the prosecution case. It is submitted that P.W-7 is the doctor who had conducted Post Mortem Examination of the deceased whereas P.W-9 is I.O of this case who conducted investigation and submitted charge sheet against the appellant and has corroborated and supported the prosecution case hence the prayer for bail of the appellant may be rejected.

5. Learned counsel for the informant, after adopting the submission of the learned APP, has further submitted that appellant was negligent while running his Oil Mill in the house of Sita Ram Sah. It is submitted that P.W-5 is the informant of this case and he has fully supported the prosecution case that Frock of his daughter was caught and trapped and her body was wrapped in the pulley and

ultimately she died. It is submitted that till date no compensation has been paid to the informant even after the death of his decased daughter although his case was sent to the DLSA, Garhwa in the month of February, 2025 itself.

6. Perused the Trial Court Record and considered the submission of both the sides.

7. It transpires that the informant-Ashok Kumar Gupta had lodged FIR against the appellant and one Sita Ram Gupta that his daughter Aradhya Kumari, aged around ten (10) years had died on 07.06.2021 while she was going on the way when the appellant-Nakchedi Sah was running his oil mill and the pulley of the mill was outside the wall on the way and due to which the Stall (i.e. Shawl) and the Frock of his daughter was caught and trapped in the pulley while she was crossing the way near the Oil Mill of the appellant and which was moved all through and her neck was also cut due to which she died on the spot.

8. It transpires that the FIR was instituted under section 287/304 of the IPC on 07.06.2021 against Nakchedi Sah and Sita Ram Sah.

9. However, the police submitted charge sheet against the appellant on 06.09.2021 under section 287/304 of the IPC against the appellant and the investigation was kept pending against the co-accused Sita Ram Sah by the police.

10. It transpires that the charges were framed only against the appellant under section 287 and 304 of the IPC.

11. It transpires that P.W-5 is the informant of this case who has fully supported his case that while his daughter was crossing on the way then she met with an accident with the pulley of Oil Mill of the appellant which was being run from

the house of Sita Ram Sah and her body was thoroughly moved due to which her neck was also cut and her Shawl and Frock were also caught and trapped in the pulley which resulted into very painful death of deceased girl Aradhya Kumari. Therefore, both appellant and said Sita Ram Sah had committed tortuous liability by not taking care for running the Oil Mill in the house of Sita Ram Sah.

12. 14. P.W-7 is the doctor of this case, who had conducted Post Mortem Examination on the person of the deceased Aradhya Kumari and found the injuries as follows:-

“(i) Abrasion and swelling 10” x 3” (light ligature) all around the neck below the thyroid cartilage-continuous, round (horizontal).

Section of neck-Sub-turious. Tissues under neck-Blood clot found.

(ii) Blood clot in layers and trachea wall lacerated.

(iii) Abrasion 2” x 2” on the back.

(iv) Abrasion 2” x 2” on the left hand.

(v) Abrasion 3” x 3” on the both foot.”

He opined that the death was caused due to asphyxia and shock due to strangulation around the neck and hemorrhage.

13. It transpires that P.W-1, P.W-2 and P.W-3, namely Ramlakhan Prasad Gupta, Sheoshankar Prasad Gupta and Shukala Sah @ Shukla Kumar have fully supported the prosecution case and stated that they had also cautioned and forbade the appellant for getting the pulley inside the house but he did not take any step. They also stated that shaft of the pulley was also outside and had become dangerous.

14. P.W-5-Ashok Kumar Gupta is the informant of this case and who has also supported the prosecution case and there is nothing to discredit in his evidence and stated that the ditch was filled by Sita Ram Sah and due to act of both the

appellant and said Sita Ram Sah, the occurrence had taken place.

15. P.W-9 is the another I.O who had submitted charge sheet against the appellant and stated that further investigation was pending against co-accused. During cross-examination, he stated that he had not recovered anything from the place of occurrence.

16. It transpires that P.W-9-Filip Topno (i.e.I.O) was negligent while submitted charge sheet only against the appellant and deliberately kept the investigation pending against said Sitaram Sah.

17. In view of the fact that the death has taken due to negligent and tortuous liability on the part of the appellant, this Court is not inclined to enlarge the appellant on bail. Accordingly, the prayer for bail of the appellant- Nakchedi Sah @ Sao is rejected.

18. It has been informed that till date Victim Compensation has not been paid to the informant although the matter was referred to Secretary, DLSA, Garhwa on 24.02.2025 for compensation of Victim in the light of Section 357A of the Cr.P.C and Jharkhand Victim Compensation Scheme.

19. Call for report from the Court of Sri Manoj Kumar Tripathi, learned Additional Sessions Judge-II, Nagar Untari, Garhwa/ or his Successor Court and learned Secretary, DLSA, Garhwa also regarding payment of Victim Compensation in the light of Section 357A of the Cr.P.C and Jharkhand Victim Compensation Scheme.

20. It is well settled from the judgment of the Hon'ble Supreme Court of India that the Criminal Appeal is in continuation of trial and this has also been observed in the

case of **Deepak Rai v State of Bihar** reported in (2013) 10 SCC 421 by the Hon'ble Supreme Court.

21. It has been held in the case of **Deepak Rai v State of Bihar** reported in (2013) 10 SCC 421 at Paragraph-35 and 36 as follows:-

“Para-35:-More so, it is settled law that an appeal by special leave under Article 136 is a continuation of the original proceedings. In Moran M. Baselios Marthoma Mathews (2) v. State of Kerala [(2007) 6 SCC 517], this Court categorically observed as follows: (SCC p. 523, para 13)

“13.We, therefore, are of the opinion that despite the fact that the appellants had insisted upon before the High Court for issuance of a writ or in the nature of mandamus upon the State or its officers for the Neutral Citation 2025:JHHC:8608 39 purpose of grant of police protection as this Court has exercised its appellate jurisdiction under Article 136 of the Constitution of India, it can and should go into that question as well viz. as to whether the writ petition itself could have been entertained or not, particularly, when the appeal is a continuation of the original proceedings.”

(Emphasis supplied)

Para-36:- Further, this Court in Netai Bag v. State of W.B.[(2000) 8 SCC 262], while observing that the scope of an appeal under Article 136 and 226 cannot be wider than the earlier proceedings, has noticed that the appeals under the said provisions are continuation of the original proceedings.”

22. Accordingly, the Deputy Commissioner, Garhwa and the Superintendent of Police, Garhwa are directed to pay compensation of Rs.4,00,000/- (Rs.Four lakhs) for the present, to the informant namely, Ashok Kumar Gupta and the mother of the Victim girl in their Bank Account jointly or separately.

23. The Member Secretary, JHALSA, Principal District and Sessions Judge, Gahrwa and Secretary, DLSA, Garhwa are

directed to co-ordinate with the Deputy Commissioner, Garhwa and the Superintendent of Police, Garhwa for payment of compensation at once.

24. Apart from this, the learned Secretary, DLSA, Garhwa must also inform regarding the steps taken by them.

25. Put up this case on 12.02.2026 and on that day the Principal Secretary, Home Department, Government of Jharkhand, the Deputy Commissioner, Garhwa and the Superintendent of Police, Garhwa shall join the Court through Video Conferencing.

26. Let a copy of this order be sent to the Member Secretary, JHALSA, learned Principal District and Sessions Judge, Gahrwa, the Principal Secretary, Home Department, Government of Jharkhand, the Deputy Commissioner, Garhwa and the Superintendent of Police, Garhwa and also to the Secretary, DLSA, Garhwa and the learned APP for the needful.

27. Thus, I.A. No.4004 of 2025 is, hereby, rejected and stands disposed of.

(Sanjay Prasad, J.)

Dated: 20.01.2026
Saket/-