

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 928 of 2024

Sunil Kumar Hembrom, aged about 30 years, son
of Late Mahavir Hembrom, resident of Village-
Narsighdih, P.O. & P.S.-Barlanga, District-
Ramgarh ... Appellant

Versus

The State of Jharkhand ... Respondent

Coram: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Arwind Kumar, Advocate
For the State : Mr. Anup Pawan Topno, A.P.P.

Order No.07/Dated: 28.01.2026

I.A. No. 16573 of 2025

1. The instant interlocutory application has been filed for suspension of sentence in connection with the judgment of conviction dated 12.06.2024 and order of sentence dated 20.06.2024 in S.T. No. 33 of 2022 arising out of Gola P.S. Case No. 101 of 2021, by which the appellant has been convicted under Section 302 of the IPC read with Section 27 of the Arms Act and directed to undergo R.I. for life and to pay fine of Rs. 10,000/- under Section 302 of the IPC and undergo R.I. for five years and to pay fine of Rs. 5,000/- under Section 27 of the Arms Act. In default of payment of fine, he shall further undergo S.I. for three months.

2. It is the contention of the learned counsel for the appellant that it is a case where appellant has falsely been implicated without taking into consideration, in right perspective, the testimonies of P.W. 1 and P.W. 3,

who have been considered by the learned trial court as the eye witnesses. It has been contended that the said eye witnesses in their respective testimony have not confirmed the narration of the entire prosecution version to the Investigating Officer, which would be evident from the perusal of the testimony of the Investigating Officer, who has been examined as P.W. 6.

3. The testimonies of P.W. 1 and P.W. 3 are also not acceptable in view of the testimony of the doctor, who has been examined as P.W. 7 and found the nature of injury to be serious having been found in the lungs and in such situation the injured person will not be in a position to say a word, as is being projected by the prosecution witnesses particularly, P.W. 1 and P.W. 3, who have deposed in their evidences that it is the deceased who has disclosed the name of the present appellant being the person who has given bullet injury in his chest.

4. The learned counsel for the appellant, based upon the aforesaid ground, has submitted that the instant interlocutory application, therefore, is fit to be allowed, since, prosecution has miserably failed in establishing the charge upon the appellant said to be proved beyond all reasonable doubts.

5. While on the other hand, Mr. Anup Pawan Topno, learned Additional Public Prosecutor appearing for the State has submitted that the present interlocutory application is the second one, since, the first interlocutory application being I.A. No. 10881 of 2024 has been withdrawn on behalf of the appellant after some argument.

6. He has contended that all the arguments which have been advanced on behalf of the appellant had already been advanced by the learned counsel at the time of consideration of the issue of suspension of sentence in the earlier interlocutory application being I.A. No. 10881 of 2024 and since the Court was not satisfied in passing the order for suspension of sentence, thereafter, the learned counsel representing the appellant has withdrawn the said interlocutory application after some argument.

7. He has also submitted that whatever argument has been advanced to demolish the testimony of P.W. 1 and P.W. 3, the same is not part of the testimony, since, no question to this effect for disbelieving the testimony of P.W. 1 and P.W. 3, who have been considered to be the eye witnesses, has been put as a question in the cross-examination of P.W. 1 and P.W. 3, even by way of suggestion.

8. The prosecution has relied upon the testimony of P.W. 1 and P.W. 3, since, they have narrated the entire prosecution version said to be committed before them and the name of the appellant has been disclosed by the deceased. Even on the issue of consciousness of the mind of the deceased after sustaining injury in the lungs, no question to that effect has been put to the doctor who has been examined as P.W. 7, therefore, the argument which has been advanced on behalf of the appellant is totally foreign to the record.

9. Learned State counsel, based upon the aforesaid ground, has submitted that it is not a fit case where the sentence is to be suspended.

10. We have heard the learned counsel for the parties.

11. This Court, in order to appreciate the argument advanced on behalf of the parties, has gone through the impugned judgment as also the testimony as available in the trial court record.

12. The judgment of conviction is based upon the testimony of P.W. 1 and P.W. 3, who have been considered by the learned trial court as eye witnesses, whose testimonies have been corroborated by the version of the doctor and the other witnesses.

13. The testimony of P.W. 1 clarifies the position that she was accompanying her deceased husband alongwith P.W. 3 and at that time the appellant has intercepted the motorcycle over which the deceased alongwith P.W. 1 and P.W. 3 were travelling and thereafter assaulted the deceased by giving him firearm injury in his chest. The deceased fell down and has disclosed the name of the assailant as that of the present appellant to P.W. 1 and P.W. 3. The testimonies of P.W. 1 and P.W. 3 are consistent to each other and the consistency is also apparent in the cross-examination of both the witnesses - P.W. 1 and P.W. 3.

14. No further question has been put by the defence for the purpose of causing doubt upon the said version of P.W. 1 and P.W. 3.; even no suggestion has been put as question with respect to the issue as to whether P.W. 1 and P.W. 3 were accompanying the deceased or not.

15. The doctor has also corroborated the version of P.W. 1 and P.W. 3 by finding the injury over the chest of the deceased.

16. The fact which has been argued that in such a nature of serious injury the deceased could not be in a position to narrate the name of the assailant, even no question to that effect as to whether the deceased was in such a state of mind to disclose the name of the assailant or not, has been put by the defence. Therefore, what has been argued on behalf of the learned State counsel that a new case has been tried to be made out which was even not the part of the suggestions put in the cross-examination, looks affirmative.

17. This Court considering the consistency in the testimonies of P.W. 1 and P.W. 3 and having been corroborated so far the nature of injury by the doctor, who has been examined as P.W. 7, is of the view that this is not a fit case where the sentence awarded to the appellant is to be suspended during the pendency of the appeal.

18. Accordingly, I.A. No. 16573 of 2025 is hereby dismissed.

19. Any observation made hereinabove will not prejudice the case of the appellant on merit at the time of hearing, since, the appeal is pending for its final consideration.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

28th January, 2026
R.K/Rajnish