

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.629 of 2025

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1. Ajay Kumar Verma, aged about 46 years,
 2. Bijay Kumar Verma, aged about 50 years,
 3. Rakesh Kumar Verma @ Rakesh Kumar Barman, aged about 55 years
 4. Deepak Kumar Verma @ Deepu Barman @ Dipu Kr. Barman aged about 40 years.
-Appellants**

Versus

1. The State of Jharkhand
 2. Manoj Kumar
-Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant	: Mr. Nikhilesh Kr. Chatterjee, Advocate
For the State	: Mr. Pankaj Kr. Mishra, APP
For the Resp. No.2	: Mr. Naresh Pd Thakur, Advocate
	Mr. Satish Kumar, Advocate

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Order No.04/17.09.2025

I.A. No.9958 of 2025

This Criminal Appeal (SJ) No.629 of 2025 has been filed on behalf of the appellants by challenging the judgment of conviction and sentence dated 23.07.2025 passed in S.T. Case No. 72 of 2016 (arising out of Bokaro Thermal P.S. Case No.31 of 2014 corresponding to G.R. Case No.221 of 2014) by Md. Faheem Kirmani, the learned Additional Sessions Judge-I, Bermo at Tenughat by which the appellants have been convicted for the offence under Section 304 (Part-II)/34 of the IPC and sentenced to undergo R.I. for seven (07) years and to pay the fine of 25,000/- each.

2. I.A. No. 9958 of 2025 has been filed on behalf of the appellants for suspension of sentence and grant of bail during pendency of this Criminal Appeal.

3. Heard learned counsel for the appellants and learned APP and learned counsel for the Respondent No.2.

4. Learned counsel for the appellants submitted that the impugned judgment and sentence passed by the learned Courts below is illegal, arbitrary and not sustainable in eye of law. It is submitted that the allegation made against the appellants is only to the extent that all the appellants had slapped once to the deceased Ghanshyam Kumar and due to which he had died subsequently. It is submitted that Doctor who had conducted the postmortem has not been examined in this case. It is submitted that the appellant No.1 namely Ajay Kumar Verma had given Rs.2,00,000/-(Two Lakhs) to the deceased Ghanshyam Kumar and one Arpan Kumar for bringing jewellery from Calcutta and while they were returning then the jewellery was stolen in train and for which the deceased could not give the explanation. It is submitted that the PW-3 namely Arpan Kumar from whom the informant has learnt about the occurrence, has been declared hostile by the prosecution. It is submitted during the Trial that the appellants had remained in custody for some period and thereafter, they were in custody since 23.07.2025 and hence, the appellants may be enlarged on bail. It is submitted that the appellants nos.1, and 4 had remained in custody since 24.02.2014 to 28.04.2014, whereas the appellant no.3 was in custody from 22.07.2014 to 23.09.2014 whereas the appellant no.2 was in custody since 28.02.2014 to 16.04.2014 and after the conviction i.e. from 23.07.2025 they are in custody and hence they may be enlarged on bail.

5. On the other hand, learned APP has opposed the prayer of bail of the appellants and submitted that all the appellants had assaulted the deceased Ghanshyam Kumar inside the shop by closing its shutter and due to which the deceased Ghanshyam Kumar had died. It is submitted that the PW-8 namely Manoj Kumar is the Informant in this case and has fully supported this

case and PW-9 i.e. the Dr. Binod Kumar Tiwari, who had found injuries on the body of the deceased and stated that death had taken place due to the continuous assault on the body without providing water and as such, the prayer of bail of the appellants may be rejected.

6. Learned counsel for the informant, after adopting the submission of learned APP, has further submitted that the deceased Ghanshyam Kumar was an employee of appellant no. 1 and he was severally assaulted by all the appellants for around one hour and due to which he succumbed to assault while being taken to the hospital. It is submitted that PW-2, PW-4, PW-5 and PW-7 namely Bhola Saw, Chandan Kr. Sahu, Rekha Saw and Motilal Sao respectively have stated during their evidence that the deceased Ghanshyam Kumar has disclosed that all the appellants have assaulted him and deceased was vomiting in their presence. It is submitted that the Informant has fully supported the case and has stated that all the appellants had assaulted the deceased mercilessly inside the shop by closing its shutter and which is proved from the evidence of Doctor i.e. PW-9 and hence the prayer of bail of the appellants may be rejected.

7. Perused the Trial Court Records and considered the submission of both the sides.

8. It appears that the deceased Ghanshyam Kumar and one Arpan Kumar were sent to Calcutta by the appellant no.1 for purchasing jewellery of Rs.2,00,000/- (Rs. Two Lakhs). However, while they were returning from Calcutta by train and arrived at Durgapur then some unknown persons committed theft and for which, the deceased has informed the matter to the owner Ajay Kumar Verma i.e the appellant no.1 and even he had tried to search the thief by jumping from the train and had chased the thief but he

could not succeed.

9. From perusal of the evidence of the informant i.e PW-8, it reveals that the Informant stated that the deceased Ghanshaym Kumar had disclosed before him prior to his death that he was subjected to assault by confining him at the shop by closing the shutter of the shop for around one hour.

10. It transpires that although, PW-3 namely Arpan Kumar has been declared hostile by the prosecution and he has not supported the prosecution case but PW-2 namely Bhola Saw, PW-4 namely Chandan Kumar Sahu, PW-5 namely Rekha Saw and PW-7 namely Motilal Saw have also stated during their respective evidence that the deceased had disclosed before them that the owners of the “Laxmi Jewellers” namely Ajay Kumar Verma, Bijay Kumar Verma and their two brothers had assaulted him.

11. The following injuries were found by the Doctor i.e. the PW-9 on the person of the deceased:-

1. External Injuries:-

(i) A black coloured bruise over the face below the right eye, both eye, mouth-closed ante mortem in nature and likely to be produce by the hard blunt object.

2. Internal Examination:-

(i) Serosanguinous Frothy discharge in the larynx.

(ii) Right and left lung grossly congested and voluminous. On dissections water with air bubbles found in the lung parenchyma.

(iii) Stomach – undigested food particles present.

(iv) Cause of death- Respiratory failure due to pulmonary oedema.

(v) The death as mentioned above may be caused by severe beating of a person without providing water and if such person flee away therefrom and consumes water in hurry, such

findings may be detected.

12. It transpires that PW-9 i.e. the Doctor namely Dr. Binod Kumar Tiwari. However, the post-mortem report was conducted by Dr. Ajay Kr.Sinha but he is no more and hence, PW-9 has proved the postmortem report of the deceased and stated the death was caused by severe beating without providing with water and if such person flee away therefrom and consumes water in hurry, such findings may be detected.

13. It also appears that the main Investigating Officer had not been examined rather PW-10 Laxmikant is part IO, had only submitted the chargesheet.

14. It appears that save and except the fact that the death has taken place due to assault made by the appellants.

15. However, this may not be the intention of the appellants to cause in death but due to the acts of the appellants the death has taken place.

16. Considering the facts and circumstances of this case and also considering the custody of the appellants, the appellants namely Ajay Kumar Verma, Bijay Kumar Verma, Rakesh Kumar Verma @ Rakesh Kumar Barman, and Deepak Kumar Verma @ Deepu Barman @ Dipu Kr. Barman are directed to be released on bail, on furnishing their respective bail bonds of Rs.15,000/- (Rs.Fifteen Thousand Only) with two sureties of the like amount each, to the satisfaction by Md. Faheem Kirmani, learned Additional Sessions Judge-I, Bermo at Tenughat or his Successor Court in connection with S.T. Case No. 72 of 2016 (arising out of Bokaro Thermal P.S. Case No.31 of 2014 corresponding to G.R. Case No.221 of 2014) subject to the condition that all the appellants shall deposit Rs. 50,000/- each i.e. total amounting to Rs.2,00,000/- (Rs. Two Lakhs) for the present in the name of the

informant at the time for furnishing their respective bail bonds before the learned Court below and which may be handed over to the informant on filing proper application before the learned Court below.

17. All the appellants, after being released from the jail, shall further deposit Rs. 1,00,000/- (Rs. One lakh) in one lumpsum within one year from the passing the order by way of Demand Draft in the name of the Informant.

18. The Chairman, DLSA, Bokaro and Secretary **SDMC** Bermo are directed to decide the Victim Compensation Scheme forthwith in the name of family members of the deceased forthwith preferably within the period of eight (08) weeks from the receipt of copy of this order and the amount may be disbursed to the family members of the deceased.

19. Thus, I.A. No.9958 of 2025 is allowed and stands disposed of.

(Sanjay Prasad, J.)

Dated 17.09.2025

Nishant/-