

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.1077 of 2024

With

I.A. No.9594 of 2025

Maksud @ Maksud Ansari @ Maqsood Ansari, aged about 45 years, son of Late Nabi Mian, resident of Village-Lahangia, P.O. Chunglo, P.S. Jamua, District-Giridih.

... .. 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. A. K. Sahani, Advocate

For the Respondent : Mr. Shailendra Kr. Tiwari, A.P.P.

I.A. No.9594 of 2025

C.A.V. on 17.11.2025

Pronounced on 25/11/2025

1. The instant interlocutory application has been filed under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023 for keeping the sentence in abeyance in connection with the judgment of conviction dated 12.06.2024 and order of sentence dated 21.06.2024 passed by the learned Sessions Judge, Giridih in connection with Sessions Trial No. 69 of 2021 arising out of Dhanwar P.S. Case No. 282 of 2020 corresponding to G.R. No. 144 of 2021, whereby and whereunder, the appellant has been convicted for the offence under Sections 302/34 and 201/34 of the Indian Penal Code and sentenced to undergo rigorous

imprisonment for life along with fine of Rs.30,000/- under Section 302/34 of the Indian Penal Code.

Factual Matrix

2. The prosecution story, in brief, requires to be referred herein which read as under:

The present case arises out of Dhanwar P. S. Case No.282/2020 registered on the basis of fardbeyan of Chawkidar Shiv Narayan Verma wherein the Informant has stated that in the morning at around 10:00 a.m. he got information that at Jamuniatand within village-Parsan on the eastern side besides the paddy field, a beheaded body of a man is lying. He passed over the information to the officer-in-charge and on getting instruction he proceeded towards place of occurrence and saw that a headless dead body of a man aged about 25 to 30 years was lying there. The deceased was wearing a striped full shirt and brown colour full pant with white sandow ganji of Lux make and a Maroon colour underwear of GNX Company. The deceased was also having a "Janeu, i.e. auspicious thread, and was wearing blue colour socks. In the finger, there was a ring and over the right shoulder, there was injury mark by sharp edged weapon. None could identify the dead body and despite search, the head was not found and after making Panchnama, the dead body was sent for Post-Mortem examination to Giridih.

3. In course of investigation the decapitated head was also found and its post-mortem examination was also conducted. The case was registered against unknown.

4. After investigation, the police submitted charge-sheet against five persons namely Md. Ibrahim Ansari, Md. Maqsood Ansari (present appellant/applicant), Nabi Mian, Khalil Mian, Hajarat Ansari and Nijam Ansari for the offence u/s 302/201/34 of I. P. C.

5. Thereafter, cognizance of the offence was taken and consequently, the case was committed the record to the Court of Sessions and subsequent to commitment S.T No.69/2021 was registered. Accordingly, charges were framed against the accused persons stating that the accused persons with common intention committed the murder by intentionally causing the death of Sateyendra Nath Mishra (deceased) and further the charges were framed for the purpose of screening evidence the accused persons after committing the murder of Sateyendra Nath Mishra @ Dablu tried to hide the dead body and the head for screening themselves from legal punishment.

6. Accordingly, the trial proceeded and the present applicant was found guilty by the learned trial court and accordingly, convicted for the offence under Sections 302/34 and 201/34 of the Indian Penal Code and sentenced to

undergo rigorous imprisonment for life along with fine of Rs.30,000/- under Section 302/34 of the Indian Penal Code.

7. The present application has been filed on behalf of applicant for suspension of sentence during pendency of the instant appeal.

Submission of the learned counsel for the Applicant:

8. Mr. Ashim Kr. Sahani, learned counsel for the appellant, at the outset, has submitted that this is the second application for suspension of sentence. Earlier also application for suspension of sentence, being I.A. No.8160 of 2024, was filed but was not pressed.

9. Learned counsel has further submitted by referring to the prosecution version as available on record that the conviction is based upon the circumstantial evidence on the basis of the last seen theory.

10. He has further submitted that there is no eyewitness to the occurrence and the entire case is based on circumstantial evidence and the prosecution has proceeded on imaginary theory of having last seen the accused with the deceased and existence of financial transaction between the accused and the deceased.

11. Learned counsel has further submitted that in the cases of the circumstantial evidence the court is required to be more circumspect to see and ensure that there is no missing link in the chain of circumstances to come to a

conclusion of guilt of the accused but in the facts of the present case, there is no chain of the circumstance, to point out the guilt of the appellant rather there is not a single circumstance to point out the guilt of the appellant.

12. It has been contended that the applicability of Section 27 of the Evidence Act, so far as the present appellant is concerned, is not applicable reason being that the appellant had been arrested on 19.09.2020 as per the arrest memo and thereafter his statement was recorded but it is also evident from the prosecution version that the recovery of two knives and burned clothes has been made on the disclosure made by the co-convict, namely, Ibrahim Ansari and based upon that the seizure memo was prepared on 12.09.2020.

13. He has further submitted that if the confessional statement will be looked into, there is statement by accused that the deceased had established an illicit relationship with the wife of the accused and therefore, the incident was given effect to, but no investigation on these lines has been done by the police rather the prosecution has come up with a case that in order to avoid the liability of payment of the dues amount of Rs.3.5 or 4 lakhs, the accused persons had committed the murder of the deceased.

14. It has further been contended that the seizure list which is dated 11.09.2020 which is marked as Ext P-9 where

the knife and other incriminating articles are said to have been recovered but it is prior to recording the confessional statement of Ibrahim Ansari which was recorded on 12.09.2020 and as such, it cannot be disputed that the co-convict, namely, Ibrahim Ansari, had been arrested prior to 12.09.2020.

15. It has been contended that another confessional statement of accused Maqsood Ansari/appellant was recorded on 19.09.2020 while seizure from the house of the accused Maqsood Ansari, Hazrat Ansari, Nijam Ansari and Nabi Mian are dated 18.09.2020 i.e. before recording of confessional statement and hence, it cannot be considered to be confession leading to discovery of incriminating material and hence, both the seizure lists cannot be relied upon.

16. Learned counsel has further submitted that DNA profile could not be generated from the knife which is stated to be recovered on the basis of confessional statement of the accused. The Inquest Report or post-mortem report is also of no help for coming conclusion of the guilt of the accused.

17. Learned counsel has submitted that PW 4, PW 5, PW 6 and PW 7 are all relatives of the said deceased and actually there is no eyewitness on the point of last seen.

18. Learned counsel further submits that the prosecution has a case that the deceased was found missing

but no missing report has been proved or exhibited in the present case.

19. Learned counsel for the appellant, on the aforesaid premise, has submitted that the present interlocutory application deserves to be allowed by keeping the sentence in abeyance.

Submission of the learned APP for the state

20. While on the other hand, Mr. Shailendra Kr. Tiwari, learned Additional Public Prosecutor appearing for the respondent-State of Jharkhand, has vehemently opposed the prayer made in the present interlocutory application filed for keeping the sentence in abeyance by referring to impugned judgment of conviction and various paragraphs of the trial court record.

21. It has been submitted that on the disclosure made in the confessional statement of Ibrahim Ansari, co-convict, two knives used in the said crime and burned clothes have been recovered and he has also taken the name of the present appellant involved in the commission of crime.

22. The Learned APP while referring the testimony of PW-5 who is the brother of Sateyendar Nath Mishra (deceased) wherein PW-5 has categorically stated that the deceased accompanied the accused Ibrahim Ansari and Maqsood Ansari on a vehicle bearing Registration No.UP-66Z-3139 and mobile phone of the victim as well as the

accused, was switched off, and has contended that there is no dispute that deceased was last accompanied with the present applicant and Ibrahim Ansari and further this fact has also been substantiated by the testimony of P.W.6.

23. It has also been disclosed in the confessional statement of Ibrahim Ansari that the deceased, namely, Sateyendra Nath Mishra was having illicit relationship with the wife of the present appellant, as such, it cannot be said that the present appellant was not having any motive for the commission of crime.

24. Learned Additional Public Prosecutor appearing for the respondent-State of Jharkhand, based upon the aforesaid premise has submitted that the present interlocutory application is fit to be rejected.

Analysis

25. We have heard learned counsel for the parties and appreciated the submission made on behalf of both the parties and has also gone through the material available on record including the impugned judgment of conviction and sentence.

26. Further, since it is case under Section 302 IPC and present appellant/applicant has been convicted for offence of murder, therefore, at this juncture it requires to refer herein the settled position of law that in cases involving conviction under Section 302 IPC, it is only in exceptional

cases that the benefit of suspension of sentence can be granted, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of **Omprakash Sahni v. Jai Shankar Chaudhary, (2023) 6 SCC 123**, for ready reference the relevant paragraph of the aforesaid Judgment is being quoted as under:

"**31.** In Vijay Kumar v. Narendra [Vijay Kumar v. Narendra, (2002) 9 SCC 364 : 2003 SCC (Cri) 1195] and Ramji Prasad v. Rattan Kumar Jaiswal [Ramji Prasad v. Rattan Kumar Jaiswal, (2002) 9 SCC 366 : 2003 SCC (Cri) 1197] , it was held by this Court that in cases involving conviction under Section 302IPC, it is only in exceptional cases that the benefit of suspension of sentence can be granted. In Vijay Kumar [Vijay Kumar v. Narendra, (2002) 9 SCC 364 : 2003 SCC (Cri) 1195] , it was held that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302IPC, the court should consider the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after they have been convicted for committing the serious offence of murder.

33. Bearing in mind the aforesaid principles of law, the endeavour on the part of the court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the abovesaid question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the

appeal, which usually takes very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The appellate court should not reappreciate the evidence at the stage of Section 389 CrPC and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach."

27. The Hon'ble Supreme Court recently on 09th April, 2025, in the case of **Janardan Ray Vs. The State of Bihar & Anr. ETC. (Cr. Appeal Nos. 1892-1893 of 2025 arising out of SLP (Crl.) Nos. 18326-18327 of 2024)** while placing reliance upon decision rendered in the case of **Om Prakash Sahni Vs. Jai Shankar Chaudhary and Anr.**, (supra) has observed in paragraphs 6 and 7 as under:

"6. In our opinion, the decision of this Court in the case of Om Prakash Sahni Vs. Jai Shankar Chaudhary and Anr. (2023) 6 SCC 123 clinches the issue involved in the present appeals. It has been observed while considering the scope of Section 389 of Cr.P.C as under:-

"30. In Kishori Lal v. Rupa [Kishori Lal v. Rupa, (2004) 7 SCC 638], this Court has indicated the factors that require to be considered by the courts while granting benefit under Section 389 CrPC in cases involving serious offences like murder, etc. Thus, it is useful to refer to the observations made therein, which are as follows : (SCC pp. 639-40, paras 4-6)

4. Section 389 of the Code deals with suspension of execution of sentence pending the appeal and release of

the appellant on bail. There is a distinction between bail and suspension of sentence. One of the essential ingredients of Section 389 is the requirement for the appellate court to record reasons in writing for ordering suspension of execution of the sentence or order appealed against. If he is in confinement, the said court can direct that he be released on bail or on his own bond. The requirement of recording reasons in writing clearly indicates that there has to be careful consideration of the relevant aspects and the order directing suspension of sentence and grant of bail should not be passed as a matter of routine.

5. The appellate court is duty-bound to objectively assess the matter and to record reasons for the conclusion that the case warrants suspension of execution of sentence and grant of bail. In the instant case, the only factor which seems to have weighed with the High Court for directing suspension of sentence and grant of bail is the absence of allegation of misuse of liberty during the earlier period when the accused-respondents were on bail.

6. The mere fact that during the trial, they were granted bail and there was no allegation of misuse of liberty, is really not of much significance. The effect of bail granted during trial loses significance when on completion of trial, the accused persons have been found guilty. The mere fact that during the period when the accused persons were on bail during trial there was no misuse of liberties, does not per se warrant suspension of execution of sentence and grant of bail. What really was necessary to be considered by the High Court is whether reasons existed to suspend the execution of sentence and thereafter grant bail. The High Court does not seem to have kept the in view.

7. Having regard to the aforestated settled legal position, we are of the opinion that the High Court has committed gross

error in appreciating the evidence already appreciated by the Trial Court at the time of considering the applications seeking suspension of sentence pending the appeal. Since this was a case of conviction under Section 302 IPC, the initial presumption available to the accused before conviction, would not be available to him. The High Court could not have suspended the sentence, reappreciating the evidence at the stage of Section 389 and trying to pick up a few lacunae or loopholes here or there in the case of prosecution. The consideration of High Court to the submission made on behalf of the accused that he had not misused the liberty during the trial or that the appeal was not likely to be heard in near future, could not be said to be the proper consideration for suspending the sentence of the accused, who have been convicted for the serious offence under Section 302, IPC. It is only in rare and exceptional circumstances, the benefit of suspension of sentence should be granted by the appellate court to the accused convicted for the serious offence under Section 302, IPC.”

28. Thus, it is evident from perusal of the relevant paragraphs of the aforesaid judgment that while considering the bail in considering the prayer for bail, in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, and the desirability of releasing the accused on bail after they have been convicted for committing the serious offence of murder.

29. It is further evident from perusal of the relevant paragraphs of the aforesaid judgment that the appellate

court should not reappreciate the evidence at the stage of consideration of suspension of sentence and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach and at this stage Court is only to see the prima facie case for its satisfaction.

30. Further, the Hon'ble Apex Court in the case of **Preet Pal Singh vs. State of U.P., (2020) 8 SCC 645** has observed that there is difference between grant of bail in case of pre-trial arrest and suspension of sentence, post- conviction. In the earlier case, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, however, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

"**35.** There is a difference between grant of bail under Section 439 CrPC in case of pre-trial arrest and suspension of sentence under Section 389 CrPC and grant of bail, post conviction. In the earlier case, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by this Court

in *Dataram Singh v. State of U.P.* [*Dataram Singh v. State of U.P.*, (2018) 3 SCC 22 : (2018) 1 SCC (Cri) 675] However, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) CrPC."

31. Thus, it is evident from the aforesaid judgment, that while considering suspension of sentence which is the post-conviction stage, the presumption of innocence in favour of the accused cannot be available and at this stage, the Court's only duty is to see that the prima-facie case is made out or not and as such the detailed appreciation of evidence is not required at this stage.

32. Thus, from the aforesaid it is evident that the Hon'ble Apex Court has categorically observed that since after conviction, the initial presumption available to the accused before conviction, would not be available to him, therefore the High Court could not have suspended the sentence, reappreciating the evidence at the stage of Section 389 and trying to pick up a few lacunae or loopholes here or there in the case of prosecution.

33. It has further been observed by the Hon'ble Apex Court that the consideration of High Court to the submission made on behalf of the accused that he had not misused the liberty during the trial or that the appeal was not likely to be heard in near future, could not be said to be the proper consideration for suspending the sentence of the accused, who has been convicted for the serious offence under Section 302, IPC and it is only in rare and exceptional circumstances, the benefit of suspension of sentence should be granted by the appellate court to the accused convicted for the serious offence under Section 302, IPC.

34. In the backdrop of the aforesaid settled proposition of law, this Court is now adverting to the factual aspect of the case as well as the contention of the learned counsel for the appellant in order to find out that whether the prayer of the applicant/appellant for suspension of sentence is fit to be allowed or not.

35. Learned counsel for the applicant/appellant has contended that there is no eyewitness to the occurrence and the entire case is based on circumstantial evidence and that the prosecution has proceeded on imaginary theory of having last seen the accused with the deceased and existence of financial transaction between the accused and the deceased, therefore , it is fit case where prayer for suspension of sentence of the applicant/appellant may be allowed.

36. *Per contra*, learned APP has vehemently opposed the prayer for suspension of sentence and has contended that PW-5 who is the brother of Sateyendar Nath Mishra (deceased) had categorically stated that the deceased accompanied the accused Ibrahim Ansari and Maqsood Ansari (present appellant) on a vehicle bearing Registration No.UP-66Z-3139 and mobile phone of the victim as well as the accused, was switched off, and as such, there is no dispute that deceased was last accompanied with the present applicant and Ibrahim Ansari and this fact has also been substantiated by the testimony of P.W.6. therefore, the theory of last seen has fully been established along with the other complete chain of circumstances which are sufficient to prove the guilt of present appellant.

37. In the aforesaid context there is no dispute about the settled position of law that the conviction on the basis of last seen theory, the proper consideration is to be there by the learned trial court on the basis of principle of completion of chain and the moment the chain will break, there cannot be conviction on the basis of last seen, since, it is based upon circumstantial evidence.

38. It requires to refer herein that the Hon'ble Apex Court in the year 1952, in the judgment rendered in **Hanumant Son of Govind Nargundkar vs. State of Madhya Pradesh [AIR 1952 SC 343]** has laid down the

parameters under which, the case of circumstantial evidence is to be evaluated, which suggests that - *"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."*

39. Further, a theory of *"accused last seen in the company of the deceased"* is a strong circumstance against the accused while appreciating the circumstantial evidence. In such cases, unless the accused is able to explain properly the material circumstances appearing against him, he can be held guilty for commission of offence for which he is charged.

40. The Hon'ble Apex Court in the case of **Satpal v. State of Haryana, (2018) 6 SCC 610** has observed that when there is no eyewitness to the occurrence but only

circumstances coupled with the fact of the deceased having been last seen with the appellant, the Criminal jurisprudence and the plethora of judicial precedents leave little room for reconsideration of the basic principles for invocation of the last seen theory as a facet of circumstantial evidence.

41. It has further been observed by the Hon'ble Apex Court in the aforesaid judgment that "last seen" may be a weak kind of evidence by itself to found conviction upon the same singularly. But when it is coupled with other circumstances such as the time when the deceased was last seen with the accused, and the recovery of the corpse being in very close proximity of time, the accused owes an explanation under Section 106 of the Evidence Act with regard to the circumstances under which death may have taken place. If the accused offers no explanation, or furnishes a wrong explanation, absconds, motive is established, and there is corroborative evidence available *inter alia* in the form of recovery or otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence, conviction can be based on the same.

42. In the instant case PW-5 is Harendra Nath Mishra (brother of Satyendra Nath Mishra, the deceased) had specifically stated that on 30th August, 2020 between 06:00

to 07:00 a.m. Maqsood Ansari (present applicant) and Ibrahim Ansari had taken his brother Sateyendra Nath Mishra on a Honda Shine motor-cycle green in colour bearing Registration No.UP-66Z-3139 where the accused persons brought the victim to Jharkhand on the assurance to repay the dues amount. He has further stated that the mobile phone of Ibrahim Ansari and Maqsood Ansari was also found switched. In the cross-examination at para 16, he stated that the deceased had accompanied Maqsood on the motor-cycle of Maqsood Ansari.

43. PW-6 Atul Kumar Mishra had stated that on 30th of August, 2020 in his presence and before his eyes he saw Ibrahim Ansari and Maqsood Ansari (present applicant) had accompanied Sateyendra Nath Mishra(deceased) from Gopiganj to Jharkhand for payment of money and for about couple of days when no information was received then he tried to contact the accused as also the deceased but all the mobiles were switched off. This witness had identified the accused Ibrahim Ansari and Maqsood Ansari.

44. PW 7 Naman Mishra had stated that he had seen the deceased accompanying the accused on 30.08.2020. He was in his in-laws house which is at the distance of 600 to 700 meters from the house of the deceased. He also stated that he heard that the accused persons talking about some monetary transaction and on 28th of August, 2020, his

maternal uncle informed him that he would be going to Giridih and on 29th of August, 2020, the deceased told him that on 30th of August, 2020, he would be going to Giridih and on 30th of August, 2020, the deceased alongwith Md. Maqsood and Ibrahim left Gopiganj on a motor-cycle. He has also stated about the agreement prepared between the accused and the deceased bearing signature of Maqsood Ansari, Sateyendra Nath Mishra and Harendra Nath Mishra. He identified the signature of Sateyendra Nath Mishra and Harendra Nath Mishra which is marked as Ext P-3 & Ext P-3/1.

45. Thus, on the basis of testimony of the aforesaid witnesses, prima facie it appears that deceased was last seen in company of the present appellant and co-accused Ibrahim Ansari. Further it is evident that there was some financial transaction between the deceased and accused including the present appellant and the accused/appellant induced the deceased to come to Jharkhand for getting the said payment.

46. Further, it is evident that there was a previous acquaintance between the accused and the deceased and this part of the evidence there is no denial or rebuttal on behalf of the accused, therefore, the accused was not unknown to the deceased and that they had previous business or other linkage is a proven fact and this linkage is

against the accused Ibrahim Ansari and Maqsood Ansari (present applicant).

47. Further, all the witnesses have stated unequivocally that Sateyendra Nath Mishra (deceased) was scheduled to go to Giridih, Jharkhand from his place of residence Gopiganj within the State of U. P. accompanied by Ibrahim Ansari and Maqsood Ansari. This part of the evidence has been fully corroborated by the witnesses PW 4, PW 5, PW 6 and PW 7.

48. Thus, prima facie it appears that the accused Ibrahim Ansari and Maqsood Ansari (present applicant) were last seen together with the deceased Sateyendra Nath Mishra, thus the one of the circumstances of last seen has been established herein by the prosecution. Therefore, the contention of learned counsel for the appellant that chain of circumstances is not completed is not fit to be accepted at this stage.

49. Further, the learned counsel for the applicant has contended that no discovery was made by Ibrahim Ansari as he was arrested on 12.09.2020 and his confessional statement was recorded at 08:10 PM. while the seizure list shows the date and time to be 11.09.2020 at 11:30 P. M.

50. In the aforesaid context the learned trial court has observed that on a careful scrutiny of the entire document it transpires that Column-VIII, the date which is mentioned as 12.09.2020 and the accused Ibrahim Ansari was arrested as

per the arrest memo, on 12.09.2020 and therefore under no circumstance his signature on the seizure list could have been taken on 11.09.2020, therefore, the mere mentioning of the date as 11.09.2020 in Column appears to be a slip of pen and such error cannot be aggravated to discard the evidentiary value of Ext P-9 which is also in co-relation of the discovery of the weapon of crime on the basis of confessional statement of accused Ibrahim Ansari and therefore, to that extent the confessional statement is also relevant in terms of Section 27 of Indian Evidence Act.

51. Thus, on the basis of discussion made hereinabove, *prima facie* there is convincing evidence of previous acquaintance between two accused and the deceased. There is also clinching evidence that the accused was last seen with the deceased and thus these circumstances are sufficient to *prima facie* establish the role of the present applicant/appellant with regard to the alleged offence i.e. the murder of Sateyendra Nath Mishra.

52. This Court, on the basis of discussion made hereinabove and particularly taking into consideration the testimony of P.W.4, 5, 6 and 7 as also taking into consideration the ratio of the judgment rendered by the Hon'ble Apex Court in the case of **Janardan Ray Vs. The State of Bihar & Anr. ETC** (supra) and **Preet Pal Singh vs.**

State of U.P (supra,) *prima-facie*, is of the view that the present interlocutory application is not fit to be allowed.

53. Accordingly, the instant Interlocutory Application stands dismissed, as such, disposed of.

54. Before parting with the matter, we may clarify that we may not be understood to have expressed any opinion on merits of the matter one way or the other and all the observations made by us hereinabove should be taken as confined to dealing with the prayer of the applicant/appellant under Section 430 of the BNSS 2023. As and when the main matter i.e. criminal appeal will come up for hearing, it will be decided on its own merits without being inhibited or influenced by the observations in this order.

I agree

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Date: 25th November, 2025

Birendra/

Uploaded on 25.11.2025