



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1197 of 1990

Ram Sumer Rai And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s) : Gajendra Pratap, Kumar Amit
Counsel for Respondent(s) : A.G.A.

Court No. - 44

HON'BLE J.J. MUNIR, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

Order on Appeal.

This matter had come up earlier in chambers today, where the learned Chief Judicial Magistrate, Ghazipur appeared and showed cause in terms of earlier orders of 2nd February, 2026 to our satisfaction. We have perused the report submitted by the Chief Judicial Magistrate placed at flag 'E'.

According to the report, appellant no. 1, Ram Sumer Rai and appellant no. 2, Ram Bachan Rai, both sons of Tileshwar Rai are dead. The fact of their demise was inquired into by Sub-Inspector, Santosh Kumar Rai with the Village *Pradhan* and survivors of the two appellants to wit, Dharmendra Kumar Rai and Jagmendra Kumar Rai, both sons of Ram Sumer Rai, besides Surya Kant Rai, son of Ram Bachan Rai and Ajit Kumar Rai, son of Ram Nagina Rai (nephew of Ram Bachan Rai).

A perusal of the papers annexed to the Chief Judicial Magistrate's report dated 04.02.2026, affirming the factum of the two appellants', death, is a report dated 21.01.2026 submitted by Anoj Kumar Singh, Sub-Inspector, *Chauki* Incharge, Sherpur, Police Station- Bhawarkole, District-

Ghazipur, who has reported that both these men passed away about four to five years ago. There is then a statement on oath, before the Chief Judicial Magistrate, of Santosh Kumar Rai, Sub-Inspector, affirming the fact of two appellants being dead. Also, on record is a statement on oath made by Anjali Rai, *Gram Pradhan*, Gram Panchayat- Sherpur, Kshetra Panchayat- Bhawarkole, Tehsil- Muhammadabad, District- Ghazipur before the learned Chief Judicial Magistrate. She too has affirmed the factum of the two deaths. Dharmendra Kumar Rai has also testified on oath before the Chief Judicial Magistrate. There is also a photostat copy of the *parivar* register issued by the *Gram Panchayat Adhikari* which shows the two appellants to be no more. There is a statement on oath by Ajit Kumar Rai, son of Ram Nagina Rai affirming the fact that his uncle Ram Bachan Rai passed away on 20.08.2022. There is a photostat copy of a death certificate issued by the Gram Panchayat- Sherpur showing that Ram Bachan Rai passed away on 20.08.2022.

In view of the inquiry held by the learned Chief Judicial Magistrate, Ghazipur and the evidence taken into consideration to reach the conclusion that appellant nos. 1 and 2 are dead, we hold that appellant no. 1 Ram Sumer Rai and appellant no. 2, Ram Bachan Rai are dead. The appeal on their behalf shall stand abated. Let the abatement be recorded in the cause title.

This appeal will now proceed at the behest of appellant no. 3, Ram Nagina Rai and appellant no. 5, Sheo Prasad Rai alone.

The appeal is one of the year 1990.

List this appeal for **hearing** on **18.02.2026** as the **first case**.

Order on Criminal Misc. 2nd Bail Application No. of 02 of 2026.

This bail application has been made on behalf of the appellants, Ram Nagina Rai and Sheo Prasad Rai seeking bail pending appeal. The applicants were admitted to bail on 11.06.1990 and had been enjoying the said liberty ever since. They did not appear on 30.03.2018 when bailable warrants were issued. Again, on 07.01.2026, they did not appear and this Court issued non- bailable warrants of arrest against the two appellants and two others, that is to say, appellant nos. 1 and 2, who were subsequently reported to be dead. Appellant nos. 3 and 5 were produced in custody before this Court on 22.01.2026. They instructed Mr. Kumar Amit, Advocate to appear on their behalf but, when they were produced before the Court, there was no bail application. Accordingly, they were remanded to judicial custody. They are presently in judicial custody. It is in these circumstances, that the present bail application has been made.

It is argued by the learned Counsel for the appellants that the appellants have not misused the liberty of bail in any manner and it was on account of a communication gap with the learned Counsel earlier appearing that they could not appear.

Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate, has opposed the bail plea.

Upon consideration of the entire circumstances, we are of opinion that the appeal having been set down for hearing and the appellants having enjoyed the liberty of bail since the year 1990, no useful purpose would be served in requiring them to suffer incarceration pending hearing of this appeal. The bail application is, accordingly, **allowed**.

Let the appellants, **Ram Nagina Rai**, and **Sheo Prasad Rai** be **released on bail** upon each of them furnishing a personal bond in the sum of Rs. 25,000/- with two sureties each in the like amount to the satisfaction of the learned Chief Judicial Magistrate, Ghazipur subject to the following condition:

"The appellants shall ensure that the learned Counsel, duly instructed on their behalf, is present to argue the appeal on the next date fixed and on any other subsequent date to which the hearing of this appeal may be adjourned."

In the event of default by either of the two appellants, the concerned appellant would render himself liable to have his bail cancelled.

Let this order be communicated to the learned Chief Judicial Magistrate, Ghazipur by the Registrar (Compliance) **within 24 hours**.

(Vinai Kumar Dwivedi,J.) (J.J. Munir,J.)

February 5, 2026

Deepak/Prashant D.