



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 3198-3199 OF 2023
(Arising out of SLP(CrL.) Nos.11900-11901/2023)

MUNSHI SAH

APPELLANT(S)

VERSUS

THE STATE OF BIHAR & ANR.

RESPONDENT(S)

ORDER

Leave granted.

Heard learned counsel for the appellant, the State and the complainant.

The present appeals arise out of a case of unnatural death of a lady for which proceeding has been started under Sections 304-B/34 and 120-B of the Indian Penal Code. The appellant is the brother of the husband and also an accused.

Charges have been framed and trial has been commenced without the husband being arrested and it is submitted on behalf of the State that he is absconding.

In these appeals, however, we are not concerned with that question. While granting bail of the appellant, the High Court observed:-

"Having regard to the facts and

circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the fact that a general and omnibus allegation has been levelled against the accused persons, but the main accused person appears to be the husband of the deceased victim lady whereas, the petitioner is the elder brother-in-law of the deceased victim lady, I deem it fit and proper to direct for release of the petitioner on bail, immediately upon surrender by the husband of the deceased victim lady before the learned trial court, subject to such conditions as may be deemed fit and proper to be imposed by the learned court of Judicial Magistrate-1st Class, Buxar in connection with Koran Sarai P.S. Case No. 18 of 2021."

In our opinion, the question of grant of bail to a co-accused person cannot be made dependent upon surrender of another accused who is described as the main accused person in this case.

In such circumstances, we do not think imposition and subsequent adhering to the condition of surrender of the husband of the deceased would be necessary for grant of bail to the appellant. We, accordingly, modify the impugned orders and direct that the appellant may be released on bail in terms of the order(s) of the High Court but the condition which requires prior surrender of husband of the deceased, contained in the part of the order(s) which we have quoted above should not be insisted upon for enlarging the appellant on bail.

The present appeals stand allowed in the above

terms.

Pending application(s), if any, shall also stand disposed of.

.....J.
[ANIRUDDHA BOSE]

.....J.
[BELA M. TRIVEDI]

**NEW DELHI;
OCTOBER 13, 2023.**

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) Nos.11900-11901/2023

(Arising out of impugned final judgment and order dated 25-01-2023 in CRLM No. 40942/2022 & 10-05-2023 in CRLM No. 26730/2023 passed by the High Court Of Judicature At Patna)

MUNSHI SAH

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR.

Respondent(s)

(IA No. 181503/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Garvesh Kabra, AOR
Mr. Ahmer Shaikh, Adv.
Mr. Avanish Deshpande, Adv.

For Respondent(s) Mr. Seshatalpa Sai Bandaru, AOR
Mr. Sanjeev Kumar Choudhary, Adv.
Ms. Shradha Choudhary, Adv.

Mr. Anshul Narayan, Adv.
Mr. Prem Prakash, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals stand allowed and the appellant be released on bail in terms of the signed order, the operative portion of which, *inter alia*, held as under:

"We, accordingly, modify the impugned orders and direct that the appellant

may be released on bail in terms of the order(s) of the High Court but the condition which requires prior surrender of husband of the deceased, contained in the part of the order(s) which we have quoted above should not be insisted upon for enlarging the appellant on bail."

Pending application(s), if any, shall also stand disposed of.

**(SNEHA DAS)
SENIOR PERSONAL ASSISTANT**

(Signed order is placed on the file)

**(VIDYA NEGI)
ASSISTANT REGISTRAR**