

Ramjee Bhuiyan vs The State Of Jharkhand on 25 September, 2025

Author: Sujit Narayan Prasad

Bench: Sujit Narayan Prasad, Sanjay Prasad

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 1530 of 2024
With
I.A. No. 6925 of 2025

..... Appellant
Versus

The State of Jharkhand Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Aman Kumar, Advocate
For the Respondent : Mr. Saket Kumar, A.P.P.

CAV/Reserved on 15.09.2025 Pronounced on 25//09/2025

I.A. No. 6925 of 2025:

1. The instant interlocutory application, under Section 430(1) of BNSS, 2023, has been filed on behalf of applicant for suspension of sentence in connection with the Judgment of conviction dated 02.09.2024 and order of sentence dated 03.09.2024 passed by the learned Sessions Judge, Palamau at Daltonganj in Sessions Trial No.14 of 2018, in connection with Hariharganj P.S. Case No. 61 of 2017, whereby and whereunder, the applicant has been convicted and sentenced to undergo S.I. for one month u/s 341/34 IPC alongwith fine of Rs.500/- and in default of payment of fine, he has further been directed to undergo S.I. for one month; the applicant has also been sentenced for life imprisonment u/s 302/34 IPC alongwith fine of Rs.10,000/- and in default of payment of fine, he has further been directed to undergo S.I. for 03 months; the applicant has also been directed to undergo R.I. for one year u/s 323/34 IPC alongwith fine of Rs.1000/- and in default of payment of fine, he has further been directed to undergo S.I. for one month; the applicant has also been directed to undergo R.I. for one year u/s 504/34 IPC alongwith fine of Rs.1000/- and in default of payment

of fine, he has further been directed to undergo S.I. for one month. All the sentences have been directed to run concurrently.

Factual Matrix:

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

The prosecution case is that Hariharganj P.S case no. 61/2017 dated 10.08.2017 u/s 341, 323, 302, 504/34 of IPC was registered on the basis of fardbeyan of informant Usha Kuar alleging therein that on 10.08.2017 at about 8.00 p.m when her husband returned home and she told him to take meal, in the meantime Pramod Bhuiyan, came with lathi and suddenly started assaulting her husband and thereafter Kamta Bhuiyan, Jagannarayan Bhuiyan, Mukul Bhuiyan, Mohar Bhuiyan, Ajit Bhuiyan, Ramji Bhuiyan, and wives of Pramod Bhuiyan and Mukul Bhuiyan came with lathi and they also started abusing and assaulting her husband due to which her husband sustained head injury and became seriously injured and died on spot. It is also alleged that in course of assault, when she and Jitendra Singh tried to pacify the dispute, they were also assaulted by the accused persons and became injured. It is also alleged that occurrence took place due to land dispute.

3. The I.O. investigated the case and after completion of investigation submitted charge sheet no. 97/2017 dated 07.11.2017 under section 341, 323, 302, 504/34 IPC against accused Pramod Bhuiyan, Jagannarayan Bhuiyan, Ajit Bhuiyan, Ramji Bhuiyan keeping investigation pending against accused Mukul Bhuiyan and exonerating other accused persons showing lack of evidence. Supplementary charge sheet no. 14/2018 dated 31-01-2018 was submitted against accused Mukul Bhuiyan u/s 341, 323, 302, 504/34 IPC.

4. Accordingly, the trial proceeded and the present applicant was found guilty by the learned trial court and accordingly, has been convicted and sentenced to undergo S.I. for one month u/s 341/34 IPC alongwith fine of Rs.500/- and in default of payment of fine, he has further been directed to undergo S.I. for one month; the applicant has also been sentenced for life imprisonment u/s 302/34 IPC alongwith fine of Rs.10,000/- and in default of payment of fine, he has further been directed to undergo S.I. for 03 months; the applicant has also been directed to undergo R.I. for one year u/s 323/34 IPC alongwith fine of Rs.1000/- and in default of payment of fine, he has further been directed to undergo S.I. for one month; the applicant has also been directed to undergo R.I. for one year u/s 504/34 IPC alongwith fine of Rs.1000/- and in default of payment of fine, he has further been directed to undergo S.I. for one month.

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

Submission on behalf of the Applicant:

6. Mr. Aman Kumar, learned counsel for the applicant, at the outset, has submitted that earlier the prayer for suspension of sentence of the present applicant had been dismissed as withdrawn by this Court vide order dated 06.02.2025 passed in I.A. No. 12836 of 2024.

7. Thereafter, the present interlocutory application has been filed on behalf of applicant renewing the prayer for suspension of sentence on the ground that the judgment of conviction is without considering the facts and circumstances of the case as the applicant is innocent and has falsely been implicated in this case.

8. It has been submitted by the learned counsel for the applicant that there was no recovery of the murder weapon from the place of occurrence and the prosecution case is based on the testimonies of related witnesses, i.e., P.W.-1 (brother of the deceased); P.W.-2 (sister-in-law of the deceased); P.W.-3 (brother of the deceased) and; P.W.-5 (wife of the deceased) and there is contradiction in their testimonies as the P.W.-5 has stated the time of occurrence to be 10:30 pm whereas the P.W.-5 has stated the time of occurrence to be 08:00 pm. It is also submitted that the independent witnesses, i.e., P.W.-4 and P.W.-8 have become hostile.

9. It has also been contended that the co-accused persons, namely, Pramod Bhuiyan, Jagannarayan Bhuiyan, Ajeet Bhuiyan @ Ajit Bhuiyan and Mukul Bhuiyan have been granted bail by the co-ordinate Bench of this Court vide order dated 23.04.2025 passed in I.A. No. 5128 of 2025 [Criminal Appeal (DB) No. 1562 of 2024].

10. The ground of custody has also been taken as the applicant is languishing in judicial custody since 02.09.2024.

11. Learned counsel for the applicant, on the aforesaid premise, has submitted that, therefore, it is a fit case for suspension of sentence so that the applicant be released from judicial custody.

Submission on behalf of the Respondent:

12. While on the other hand, Mr. Saket Kumar, learned Additional Public Prosecutor appearing for the respondent-State has vehemently opposed the prayer for suspension of sentence.

13. It has been submitted that all the prosecution witnesses have fully supported the prosecution case as the P.W.-5 (wife of the deceased) had also sustained injuries during assault by the accused persons upon the deceased and on hulla when P.W.-1 and P.W.-2 came out of the house, then P.W.-1 was also assaulted by the accused persons due to which P.W.-1 also sustained injury.

14. The fact of bail having been granted in favour of the co-accused persons, namely, Pramod Bhuiyan, Jagannarayan Bhuiyan, Ajeet Bhuiyan @ Ajit Bhuiyan and Mukul Bhuiyan has not been disputed by the learned Additional Public Prosecutor.

15. Learned counsel for the respondent, on the aforesaid premise, has submitted that, therefore, it is not a fit case for suspension of sentence, as such, the present interlocutory application may be

rejected.

Analysis:

16. We have heard the learned counsel for the parties and appreciated the submission made on behalf of both the parties as also gone through the trial court record.

17. It needs to refer herein that earlier the prayer for suspension of sentence of the present applicant had been dismissed as withdrawn by this Court vide order dated 06.02.2025 passed in I.A. No. 12836 of 2024. Thereafter, the present interlocutory application has been filed renewing the prayer for suspension of sentence during pendency of the appeal.

18. Learned counsel for the applicant has placed much emphasis on the fact that identically placed co-accused persons have already been granted bail during pendency of the appeal. The copy of the said order has been placed before this Court for its perusal.

19. This Court has found from the said order that the co-accused persons, namely, Pramod Bhuiyan, Jagannarayan Bhuiyan, Ajeet Bhuiyan @ Ajit Bhuiyan and Mukul Bhuiyan have been granted bail, during pendency of the appeal, by the co-ordinate Bench of this Court vide order dated 23.04.2025 passed in I.A. No. 5128 of 2025 [Criminal Appeal (DB) No. 1562 of 2024] by taking into consideration that the allegations are general and omnibus in nature, against the said applicants, as also that there is a land dispute which resulted in such assault.

20. Since the learned counsel for the applicant has raised the ground of parity, therefore, it is the bounden duty of the Court to scrutinize the said ground.

21. In the aforesaid context it needs to refer herein that the issue of parity has been dealt by the Hon'ble Apex Court in the case of Tarun Kumar vs. Assistant Director Directorate of Enforcement, 2023 SCC OnLine SC 1486 wherein it has held as under:

"18. The submission of learned Counsel Mr. Luthra to grant bail to the appellant on the ground that the other co-accused who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration."

22. It is further settled connotation of law that Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and by only simply saying that another accused has been granted bail is not sufficient to determine whether a case for grant of bail on the basis of parity has been established. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230 wherein it has been held as under:

"25. We are constrained to observe that the orders passed by the High Court granting bail fail to pass muster under the law. They are oblivious to, and innocent of, the nature and gravity of the alleged offences and to the severity of the punishment in the event of conviction. In *Neeru Yadav v. State of U.P.* [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527], this Court has held that while applying the principle of parity, the High Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail. This Court observed : (SCC p. 515, para 17) "17. Coming to the case at hand, it is found that when a stand was taken that the second respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinise every aspect and not capriciously record that the second respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order [*Mitthan Yadav v. State of U.P.*, 2014 SCC OnLine All 16031] clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the second respondent has been charge-sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this Court would tantamount to travesty of justice, and accordingly we set it aside."

26. Another aspect of the case which needs emphasis is the manner in which the High Court has applied the principle of parity. By its two orders both dated 21-12-2020 [*Pravinbhai Hirabhai Koli v. State of Gujarat*, 2020 SCC OnLine Guj 2986], [*Khetabhai Parbatbhai Makwana v. State of Gujarat*, 2020 SCC OnLine Guj 2988], the High Court granted bail to Pravin Koli (A-10) and Kheta Parbat Koli (A-15). Parity was sought with Sidhdhrajsinh Bhagubha Vaghela (A-13) to whom bail was granted on 22-10-2020 [*Siddhrajsinh Bhagubha Vaghela v. State of Gujarat*, 2020 SCC OnLine Guj 2985] on the ground (as the High Court recorded) that he was "assigned similar role of armed with stick (sic)". Again, bail was granted to Vanraj Koli (A16) on the ground that he was armed with a wooden stick and on the ground that Pravin (A-10), Kheta (A-

15) and Sidhdhrajsinh (A- 13) who were armed with sticks had been granted bail. The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law."

23. It is evident from the proposition laid down in the said cases that the factual aspect governing the case of the culpability said to be committed by one or the other, if found to be exactly same and having taken into consideration by the concerned Court, then only the principle of parity will be applicable.

24. In the backdrop of the aforesaid settled proposition of law and in order to find out the culpability against the present applicant, this Court has gone through the impugned judgment, wherefrom it is evident that the allegation has been levelled that Pramod Bhuiyan, came with lathi and suddenly started assaulting the husband of the informant and thereafter Kamta Bhuiyan, Jagnarayan Bhuiyan, Mukul Bhuiyan, Mohar Bhuiyan, Ajit Bhuiyan, Ramji Bhuiyan (present applicant), and wives of Pramod Bhuiyan and Mukul Bhuiyan came with lathi and they also started abusing and assaulting the husband of the informant due to which her husband sustained head injury and became seriously injured and died on spot.

25. Further, from the testimonies of the prosecution witnesses, it is evident that they all have stated in the same manner as has been stated by the informant. Thus, from the aforesaid, it is evident that the allegation against the present applicant and other co-accused persons, namely, Pramod Bhuiyan, Jagnarayan Bhuiyan, Ajeet Bhuiyan @ Ajit Bhuiyan and Mukul Bhuiyan are on identical footing.

26. This Court, in view of the aforesaid and also taking into consideration the fact that the co-convict, namely, Pramod Bhuiyan, Jagnarayan Bhuiyan, Ajeet Bhuiyan @ Ajit Bhuiyan and Mukul Bhuiyan have already been granted bail by the co-ordinate Bench of this Court vide order dated 23.04.2025 passed in I.A. No. 5128 of 2025 [Cr. Appeal (DB) No. 1562 of 2024], *prima facie*, is of the view that the present interlocutory application deserves to be allowed.

27. Accordingly, the instant Interlocutory Application stands allowed, as such, disposed of.

28. In view thereof, the applicant, named above, is directed to be released on bail, during pendency of the appeal, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Palamau at Daltonganj in connection with Sessions Trial No. 14 of 2018, arising out of Hariharganj P.S. Case No. 61 of 2017.

29. It is made clear that any observation made hereinabove will not prejudice the case of the parties on merit since the appeal is lying pending for its consideration.

(Sujit Narayan Prasad, J.) (Sanjay Prasad, J.) 25th September, 2025 Saurabh/-

A.F.R.