

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.288 of 2023**

Arising Out of PS. Case No.-24 Year-2013 Thana- KARANDAY District- Sheikhpura

1. AMIT KEWAT SON OF LATE DEVNATH KEWAT @ LATE DEONATH KEWAT RESIDENT OF VILLAGE - HASANPUR, P.S. - KARANDAY, DISTT. - SHEIKHPURA
2. PREMAN KEWAT SON OF BUDHO KEWAT RESIDENT OF VILLAGE - HASANPUR, P.S. - KARANDAY, DISTT. - SHEIKHPURA
3. SUBELAL KEWAT SON OF BASO KEWAT RESIDENT OF VILLAGE - HASANPUR, P.S. - KARANDAY, DISTT. - SHEIKHPURA

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 304 of 2023

Arising Out of PS. Case No.-24 Year-2013 Thana- KARANDAY District- Sheikhpura

SITARAM KEWAT S/O LATE KULDEEP KEWAT RESIDENT OF VILLAGE- HANSAPUR, POLICE STATION- KARANDEY, DISTRICT SHEIKHPURA.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 321 of 2023

Arising Out of PS. Case No.-24 Year-2013 Thana- KARANDAY District- Sheikhpura

1. SHANKER KEVAT Son of Late Naro Kevat R/V- Hansapur PS- karandey Dist- Sheikhpura bihar
2. Ram Dular Kevat Son of Natu Kevat R/V- Hansapur PS- karandey Dist- Sheikhpura bihar
3. Birendra Kumar Son of Ganesh Kevat R/V- Hansapur PS- karandey Dist- Sheikhpura bihar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s



Appearance :

(In CRIMINAL APPEAL (DB) No. 288 of 2023)

For the Appellant/s : Mr. Pankaj Kumar, Advocate

For the Respondent/s : Mr. Dilip Kumar Sinha, APP

(In CRIMINAL APPEAL (DB) No. 304 of 2023)

For the Appellant/s : Mr. Anil Kumar Singh, Advocate

For the Respondent/s : Mr. Abhimanyu Sharma, APP

(In CRIMINAL APPEAL (DB) No. 321 of 2023)

For the Appellant/s : Mr. Chandrasekhar Sharma, Advocate

For the Respondent/s : Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE JUSTICE SMT. GUNNU ANUPAMA CHAKRAVARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

5 01-11-2023 The matters have been placed for considering the appellants' prayer for suspension of sentence and their release on bail during the pendency of the appeals. The Lower Court records have been received.

2. The learned counsel for the appellants have attempted to convince us that the finding of conviction recorded by the Trial Court is not based on correct appreciation of evidence.

3. In a recent decision rendered on 02.05.2023, in **Criminal Appeal No. 1331-1332 of 2023 (Omprakash Sahni Vs. Jai Shankar Chaudhary & Anr.)** the Supreme Court has held as under:-

“...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 of the CrPC and try to pick up few lacunas or loopholes here or there in the case of the prosecution. Such would not be a correct approach...

4. In the light of the Supreme Court's decision as noted above, we are not inclined to re-appreciate the evidence at the stage of Section 389(1) of the CrPC. We do not find any palpable legal infirmity requiring this Court to exercise power under Section 389(1) of the CrPC.

5. Appellants' prayer for suspension of sentence is accordingly rejected. However, appellants shall be at liberty to renew the prayer for suspension of sentence after one year, if, in the meanwhile, the appeals are not taken up for final hearing.

(Chakradhari Sharan Singh, J)

(Gunnu Anupama Chakravarthy, J)

Nishant/-

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