

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1071 of 2023**

Arising Out of PS. Case No.-91 Year-2018 Thana- CHANAN District- Lakhisarai

1. Balmiki Mandal Son of Late Jageshwar Mandal R/V- Maheshleta, PS-Chanan Dist- Lakhisarai.
2. Bhikhari Mandal Son of Late Jageshwar Mandal R/V- Maheshleta, PS-Chanan Dist- Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

- 3 06-11-2023 1. Heard learned counsel for the appellants and learned APP for the State.
2. The instant appeal has been filed against the judgment of conviction dated 15.02.2023 and order of sentence dated 16.02.2023, passed by learned District and Sessions Judge, Lakhisarai in Sessions Trial No. 181 of 2019 arising out of Chanan P.S. Case No. 91 of 2018, whereby the appellants have been convicted for the offences punishable under Section 448 read with Section 149 of IPC, under Section 325 read with Section 149 of IPC and under Section 307 read with Section 149 of IPC, and sentenced for the said offences.
3. Learned counsel appearing for the appellants



presses the bail prayer of the appellants made under Section 389(1) of Cr.P.C.

4. The main submissions advanced by learned counsel for the appellants are that both the appellants are old persons, appellant no. 1, Balmiki Mandal, is 70 years old and appellant no. 2, Bhikhari Mandal, is 65 years old and an incident of quarrel having taken place in between the son of the informant and co-convict Mithilesh Kumar is said to be the genesis of the occurrence and during the trial, PW-1 and PW-2, who claimed to be the eye-witnesses of the alleged occurrence, deposed that they came at the place of occurrence after the commission of the alleged assault and on the body of the victim only three injuries were found and the same were not specifically attributed against the appellants and PW-3, who is said to be an injured made a vague statement regarding the allegation concerned to the appellants and moreover, the alleged act of appellants does not attract the offence punishable under Section 307 of the IPC for which they have been convicted and the alleged incident is related to simple *maar-peet* and during trial two material witnesses namely, Mahesh Mahto and Sharvan Mandal, whose statements were recorded during investigation and they are said to be independent persons, were not produced and examined.



Further submission is that during the trial, the appellants remained on anticipatory bail and presently, they have been languishing in jail since the date of conviction and there is no chance of early hearing of their appeal.

5. Learned APP appearing for the State has opposed the bail prayer of the appellants.

6. Considering the above submissions and mainly the unlikelihood of appellants' appeal to be taken up for hearing in near future, this Court is inclined to accept their bail prayer. Accordingly, let the appellants above-named be enlarged on bail during the pendency of this appeal on furnishing bail bonds of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned District and Sessions Judge, Lakhisarai, in Sessions Trial No. 181 of 2019 arising out of Chanan P.S. Case No. 91 of 2018.

(Shailendra Singh, J)

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