



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No.....of 2026
(@Special Leave Petition (Crl.) No.7128 of 2026)**

Arjun Jani @ Tuntun

.... Appellant

Versus

State of Orissa

.... Respondent

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. We are deeply dismayed, and equally perturbed by the order which rejected an application seeking condonation of delay of 3157 days and as a consequence dismissed the 'Jail Memo of Appeal' against the order of conviction under Section 302, with sentence imposed of life imprisonment where the convict had, at the time of the impugned order suffered incarceration of 12 years and now a further period of 10 years; a total of 22 years.

3. Access to justice still eludes the marginalized sections of our society and especially those convicted and imprisoned from amongst them. When the three pillars of democracy consistently

endeavor to bring legal aid to the doorsteps of every citizen, especially the poor, the needy and the deprived, we, in the Constitutional Courts should introspect to sensitize ourselves in taking a liberal approach insofar as delay occasioned in filing an appeal from an order of conviction and sentence, depriving a person, the most valuable and fundamental of all rights; liberty. Not a mere liberal approach but a pro-active one to condone delay, however large it is when a convict knocks at the door of a Court, in appeal, which in the present case raises some real concerns.

4. The above appeal filed with assistance from the legal services, after undergoing 22 years in prison, is filed with a delay of 3703 days, which has already been condoned by a Coordinate Bench. The Coordinate Bench, in which one of us, (J. B. Pardiwala, J.) was a member, by order dated 07.05.2026, termed the impugned order to be very disturbing and noticed thus: -

“7. The High Court, while declining to condone the delay, ought to have considered the fact that the petitioner was already undergoing sentence past 12 years. The High Court ought to have also considered that it was an appeal through jail. This itself was sufficient for the High Court to take a practical view

or rather a sympathetic view of the matter and at least ought to have condoned the delay so as to give one opportunity to the petitioner to argue his criminal appeal on merits. As on date, the petitioner has undergone almost 22 years of sentence.”

5. The Conduct Certificate issued by the jail authorities certified that during the period of confinement the conduct and behavior of the appellant was satisfactory, he maintained good relationship with co-prisoners and was at no time punished for any jail offence. The Coordinate Bench released the appellant on bail on his execution of personal bond of Rs.10,000/- to the satisfaction of the Jail Superintendent. The District Legal Services Authority, Koraput, State of Odisha was also directed to prepare an appropriate representation, seeking remission of sentence in accordance with the remission policy prevailing at the time of the commission of offence or any beneficial policy thereafter.

6. On the last date of hearing, since the case revealed the murder of three women, which information led to the initiation of criminal prosecution, we were apprehensive of whether the deaths were the result of a psychological aberration. We hence summoned the Station House Officer (SHO) of the jurisdictional Police Station so as to understand whether there were any serial

killings of like nature reported during the time when the instant murders were brought to light, especially when the women were alleged to have been killed with stones, smashing their heads in a public road. The SHO was present today and he informed us that on examination of records, there was no like incident reported at the time when the subject incident came to light.

7. The learned Counsel appearing for the State referred to Annexure P4, in answer to a query regarding the remission policy. It is seen from Annexure P4 that the application of the appellant for remission was rejected six times, the last of which was on 19.09.2025. The order noticed that after 22 years of actual imprisonment, he is 45 years of age and with remission he would have undergone 25 years of incarceration. It is specifically recorded that *"It is submitted here that both the Policy for the year 2000 and the current Policy (2022) are beneficial to the Petitioner with regard to his Premature Release"*. However, the Deputy I.G. of Prisons lamented that as per Clause 6(4) of Law Department Resolution dated 26.09.2000 as well as Clause 8(4) of the current Policy, the case of the petitioner will be reconsidered by the State Sentencing Review Board (SSRB) only after expiry of one year

from the date of last consideration. The lament falls on deaf ears, and the prior rejections were also due to apprehension of law and order situation arising since the people of the locality were against his release; which in every circumstance cannot be a cause, not to judiciously exercise the power of remission.

8. Be that as it may, we looked into the merits of the matter and from the testimonies we see a pall of incredulity. Before we examine the evidence, we have to notice that the scene of occurrence, as discernible from the depositions, was a locality; with cluttered houses, no electricity, a factory nearby which operates with deafening sound and inhabited by people from the marginalized sections. The deceased were numbered three and named Kamala, Sonbari & Ratanai, residing in the place, in separate houses. The witnesses too were neighboring residents.

9. PW3, the eyewitness spoke of having seen the accused striking the head of Ratanai residing in the locality and tried to intercede but when threatened by the accused, fled in fear to the house of PW4. There is no clarity as to whether she informed the gruesome incident she witnessed, immediately to PW4 or not. Next day morning, PW3 on returning to her house found some

villagers gathered at the alleged scene of crime. PW7 says that she went to a tea shop in the morning nearby, recited the incident and together with others came back to the crime scene. She then found, the bodies of Kamala and Sonbari lying at the scene of occurrence, for the first time and was then made aware of two other deaths having occurred on the same night, all of them women. PW3 in cross examination admitted that her husband was in the house on that night and later, said that he had gone out after dinner.

10. The prosecution went to trial with the eyewitness testimony and the corroboration by way of *res gestae*, as coming out from PWs 1 to 4 & 7, who have different versions as to how they came to hear the version of PW3 about the incident. In cross examination it was deposed that she witnessed the assault from within her house, peeping through a gap in the door at 10' clock in the night. The Investigating Officer (I.O.) denied the testimony of PW3 that she spoke of the occurrence to PW2, having been stated to him at the time of investigation. The testimony of PW4 that PW2 was trembling out of fear and she slept in her house also

was not recorded in her statement under Section 161 of the Code of Criminal Procedure, 1973 (Cr. PC).

11. There was an earlier incident deposed to, by PW3 corroborated by PWs 2,4, 7 & 9 of the accused, having roamed the streets screaming that he wanted *to 'kill someone'*; with no name disclosed. PW3 also stated that the accused walked into her house, took a tumbler and later went to Kamala's house (one of the deceased) with liquor. More shocking is the statement of PW3 that from her house to go to PW4's house she has to pass Kamala's house, in front of which the two other bodies were seen. This has to be juxtaposed with the fact that PW3 witnesses the murder of only Ratanai and not the others and while she was fleeing at night she did not see the other dead bodies lying on her way to PW4's house.

12. Relevant is also the fact that the I.O, PW13, who also carried out the inquest has not spoken of the scene of occurrence nor prepared a sketch, especially when three bodies of murdered victims were recovered. It is pertinent that PW13 does not have any explanation as to how he reached the accused and arrested him. But he speaks of a confession having been made by the

accused after his arrest which definitely cannot be relied upon; inadmissible under Section 25 of the Indian Evidence Act, 1872. Very significantly PW8, one of the witnesses of the recovery under Section 27, speaks of the police having beat the accused to extract the confession.

13. The recovery of MOI to MOIII; stones and a brick, from the accused, as spoken of by the I.O. was specifically rejected by the trial court, rightly so since there was nothing found in the stones recovered, connecting those to the murder. No blood stains were visibly seen, as deposed by the I.O, nor were any detected, on chemical examination at the Forensic Science Laboratory, which report though produced no positive result was spoken of by the I.O. Again, while the I.O spoke of the recovery of MoI to MOIII from the bushes near the scene of crime, as pointed out by the accused, PW1, the First Informant, PW3, the eyewitness, PW8 and PW9, the *mahazar* witnesses of the recovery, consistently said that MOI to MOIII were lying near the bodies, in plain view and with blood stains.

14. The eyewitness testimony alone resulted in the conviction of the accused, which is not impermissible, but only when the

testimony is believable, credible, consistent with the other circumstances and inspires the confidence of the Court and not when there are serious discrepancies raising a reasonable doubt as to the witnessing of the incident.

15. PW3 speaks of having known the accused and the deceased women and testified that at about 8/9 pm on the ill-fated night, the accused was shouting 'to kill somebody'. He is said to have gone to her house and picked up a pot, when her husband was present. At midnight, she got up hearing a sound and through a gap in the door, witnessed one murder after which she fled. She did not speak of the other murders, though PW7, who met her at the Tea Shop, next day morning, speaks of PW3 having told him about three murders, first Kamala, then Sonbari and lastly, Ratanai. PW4 did not ask why PW3 came to her house in the midnight despite finding her to be trembling with fear. None were awakened in the night despite three murders having occurred at night. The three bodies were strewn around at the scene without any explanation as to why the victims came out of the house in the dead of the night. None of the relatives or co-inhabitants of the deceased

were examined, nor was it brought out that they were residing alone.

16. The result of the postmortem examination conducted by PW5 as per his testimony reveals almost similar injuries having been caused on the three women, on their face and on the head, with heavy blunt object. They died of internal bleeding and brain injury.

17. As we found, the testimony of the eyewitness is shaky and highly improbable, it does not lead to a definite conclusion that the accused murdered the three women. In any event, though the accused was alleged with three murders, he has been convicted for only one, of that witnessed by PW3. We are of the opinion that the prosecution leaves a lot to be desired and there lingers a serious doubt in our minds as to the finding of guilt entered by the trial court on the sole testimony of the eyewitness, which in the given circumstances is found to be highly improbable. We hence set aside the judgment of the trial court and acquit the accused. As we noticed, the accused was released on a personal bond of Rs.10,000/-, which shall stand cancelled.

18. Three lives were snuffed out, having been bludgeoned to death, a person taken into custody on mere suspicion from whom a confession; though not admissible was extracted employing third-degree methods, the trial court fails to evaluate the evidence properly and the High Court remains a moot spectator while adding to the tally of disposals; cumulatively resulting in 22 years being erased out of a person's life without any reliable evidence.

19. We deem it appropriate to direct the District Legal Services Authority, Koraput, State of Odisha to attempt rehabilitation or resettlement of the appellant for which the District Administration, headed by the District Collector shall assist.

20. The appeal stands allowed with the above directions.

21. Pending applications, if any, shall also stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
AUGUST 04, 2026.**