

H-6
26/3/12

(Petitioner in Jail)

In the High Court of Judicature at Patna.

(Criminal Writ Jurisdiction)

Cr.W.J.C.No. _____ of 2012.

Sanjeev Kumar Yadav @ Dalda Yadav Petitioner.

Versus

The State of Bihar and others..... Respondents.

Subjects-Habeas Corpus.

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Sanjeev Kumar Yadav & Dalda Yadav..... Petitioner

Versus

The State of Bihar and others..... Respondents.

- SYNOPSIS -

This is an application for direction to the Respondents to release the petitioner from Jail forthwith.

PARA-3
ANN-1

One First Information Report bearing Murliganj Police station Case No.45 of 2009 was registered against unknown.

PARA-4
ANN-2

During investigation name of petitioner has come and he was remanded on 09.11.2009.

PARA-5
ANN-3

Petitioner confessed his guilt. The court sentenced him for S.I. imprisonment for 1½ years.

PARA-7

One another First Information Report bearing Kumerkhand Police Station Case No.74 of 2009 was registered against petitioner.

PARA-8

In this case petitioner was arrested with Arms by the Police on 1.7.2009 and on 2.7.2009 he was sent into jail and since then he is languishing in jail.

Hence this Writ Application.

(Petitioner in Jail)

In the High Court of Judicature at Patna.

(Criminal writ Jurisdiction)

Cr. W. J. C. No. _____ of 2012.

In the matter of an

application under Articles

226 and 227 of the Constitu-

-tion of India.

And

In the matter of :-

Sanjeev Kumar Yadav @ Balda Yadav, son of Ganu Shyam

Yadav, Resident of Tonali-Burhiganj, Burga Chak,

Police station-Burhiganj, District-Hachepura.

..... Petitioner.

Versus

1. The State of Bihar.
2. Director General of Police, Bihar, Patna.
3. Inspector General of Police, Bihar, Patna.
4. Inspector General of Police, Prison, Bihar, Patna.
5. Jail Superintendent, Madgalhara, Dehroghara.
6. The Superintendent of Police, Madhupura.

..... Respondents.

To,

The Hon'ble Mr. Justice Karna M. Doshi,
the Chief Justice of the High Court of
Judicature at Patna and his Companion
Justices of the said Hon'ble Court.

The humble petition on
behalf of the petitioner
above named;

Most Respectfully sheweth :-

1. That this is an application for

direction to the Respondents to release the petitioner from Mandal Kara (Jail), Madhepura forthwith in connection with G.R.No.374 of 2009 arising out of Murliganj Police Station Case No.45 of 2009 sentenced by Jail Lok Adalat, District Jail, Madhepura and also in connection with G.R.Case No.960 of 2009, Kumerkhand Police Station Case No.74 of 2009 Trial No.1054 of 2010 sentenced by learned Md.Manjoor Alam, Judicial Magistrate, 1st Class, Madhepura as the petitioner has served the total imprisonment in both cases.

2. That the petitioner has not moved earlier before Hon'ble High Court in the instant matter.

3. That one First Information Report bearing Murliganj Police Station Case No.45 of 2009 G.R.No. 374 of 2009 was registered on 21.3.2009 against unknown person offence under Section 379 of Indian

of Indian Penal Code.

A True copy of First
Information Report is
annexed herewith and marked
as Annexure-'1' to this
application.

4. That during investigation the name
of the petitioner has been tagged in this case by
the Police and then the petitioner was arrested and
remanded in this case on 9.11.2009 and he was sent in
hall on 9.11.2009 by the learned Court below.

A true copy of Information
dated 2.2.2012 is annexed
herewith and marked as
Annexure-'2' to this appli-
cation.

5. That in this case the petitioner confessed his guilt before the Member, Jail Lok Adalat, Mathpura and accordingly the Court vide order dated 30.4.2011 found guilty of charge under Section 379 of Indian Penal Code and the petitioner was sentenced to undergo S.I. for 14 years. The period already undergone in Jail custody in connection with this case shall be set off.

A true copy of order dated 30.4.2011 is annexed herewith and marked as Annexure-1 J to this application.

6. That the petitioner was sent in jail to serve the imprisonment of S.I. for 14 years. The petitioner is in jail since 9.11.2009 and accordingly he has completed the imprisonment of 14 years on 9.5.2011.

7. That one another First Information Report bearing Kumarkhand Police Station Case No.74 of 2009, G.R.Case No.960 of 2009 was registered on 1.7.2009 against the petitioner under Section 25(1-B) a, 26 Arms Act and section 414 of the Indian Penal Code.

8. That in this case the petitioner was arrested with arms by the Police on 1.7.2009 and 2.7.2009 petitioner was sent into jail and since then he is languishing in jail.

9. That after the trial the learned Shri Md.Mangoor Alam, Judicial Magistrate, 1st Class, Madhepura vide Judgement dated 25.2.2010 has found the petitioner guilty for offences under Section 25(1B) a, 26 Arms Act and section 414 of the Indian Penal Code and accordingly convicted him. The petitioner was sentenced to undergo R.I. for 24 years and

fine of Rs.1000/- under Section 25(1B) of Arms Act.

The petitioner was sentenced to undergo R.I. for 2½ years and fine Rs.1000/- for offence Under Section 26 Arms Act. The petitioner was sentenced to undergo R.I. for 2½ years and fine of Rs.1000/- under Section 414 of Indian Penal Code.

The learned Court below further directed that the convict Sanjeev Kumar Yadav v Dalda yadav is hereby ordered to serve rigorous imprisonment for 2½ years and a fine of Rs.1000/- for each of the offences punishable Under Section 25(1B) of Arms Act and Section 414 of the Indian Penal Code.

The Court further held that in case of default of payment of fine the convict is hereby ordered to serve a simple imprisonment of one month for each Rs.1000/-.

It is further held that the sentence of

the rigorous imprisonment of the convict shall run concurrently and the periods under gone in jail custody by him in connection with this case shall be set off from the quantum of punishments ordered as above.

10. That the petitioner was sent in jail to serve the imprisonment of R.I. for 24 years which was running concurrently in each section. The petitioner is languishing in jail since 2.7.2009 in this case and accordingly he has completed the imprisonment of 24 year on 2.1.2012.

11. That in both the cases the petitioner has served the sentence in total in the jail in both cases and he has completed imprisonment on 9.5.2011 and 2.1.2012 respectively but inspite of that petitioner was not released from jail.

12. That the petitioner requested the Jail Superintendent, Mandal Kara, Madhepura to release him immediately because he has completed his imprisonment but in spite of that the petitioner was not released from the jail.

13. That the petitioner has no efficacious and alternative remedy other than by way of this application.

14. That in the facts and circumstances of the case the petitioner may kindly be released in these cases.

It is, therefore, prayed that your Lordships may graciously be pleased to admit this application, issue Rule 113, calling upon the Respondents and after hearing the parties be pleased to allow this application and to grant reliefs to the petitioner as

-10-

prayed in Para-1 to this applica-
-tion and/or pass such other order
or orders as your Lordships may
deem fit and proper.

And for this, the petitioner shall ever pray.

AFFIDAVIT.

I, Ghanshyam Prasad, aged about 52 years, Son of Late Beni Prasad Yadav, resident of Village-Murliganj, Police Station Murliganj, District-Madhepura, do hereby solemnly affirm and state as follows :-

1. That I am father of the petitioner and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this petition have been read over and explained to me in Hindi which I have fully understood the same and the statements of facts made in Paragraph Nos. 2, 5, 6 and 8 to 12 are true to my knowledge and those made in Paragraph Nos. 3, 4 and 7 are based upon informations derived from the records of the case which I believe to be true and the rest are by way of submissions to this Hon'ble Court.
3. That the Annexures are true/photostat copies of their respective originals.

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C. J. M. 1-8-09

पं. सं. - 118
हो. सं. - 26 (नियम-143)

G. No. 374/09
प्राथमिकी (F. I. R.)

संख्या 2027725
6339-504

(दं. प्र. सं. की धारा 154 के अधीन)

*जिला: मधेपुरा *अनुमंडल: मधेपुरा *थाना: सुरली गंज *प्राथमिकी सं. 004/09 तिथि 21/3/09
(Distt.) (S. Div.) (P.S.) (Yr.) (F.I.R. No.) (Date)

(I) *अधिनियम (Act) नाप रोकथाम *धाराएं (Sections) 379

(II) *अधिनियम (Act) *धाराएं (Sections)

(III) *अधिनियम (Act) *धाराएं (Sections)

(IV) *अन्य अधिनियम एवं धाराएं (Other Acts and Sections)

(क) *अपराध की घटना *दिन शुक्रवार *तिथि से 20/3/09 *तिथि तक
(Occurrence of offence) (Day) (Date from) (Date to)

*समयावधि (पहर) *बजे से 20/21-3:2009 की राती *बजे तक
(Time period) (Time from) (Time to)

(ख) थाना में प्राप्त सूचना तिथि 21/03/09 समय 11/00 बजे

(ग) प्राथमिकी दर्ज करने की तिथि 21/03/09 (दिनांक) समय 11/00 बजे

(घ) थाना दैनिकी सं. प्रविष्टि सं. समय 11/00 बजे

सूचना का प्रकार (Type of information) लिखित/मौखिक (Written/Oral)

घटना स्थल - (क) थाना से दिशा एवं दूरी आर. पी. व. 1. 50 मी. गस्त सं. 5

(ख) *पता (Address) ग्राम - जामरापुर, बार्ड नं. 10, थाना - सुरली गंज, जिला - मधेपुरा

(ग) थाना की सीमा से बाहर होने की दशा में थाना का नाम जिला

परिवादी/सूचना दाता

(क) नाम संजय कुमार शर्मा

(ख) पिता/प्रति का नाम श्री - सुलेन्द्र प्र. शर्मा

(ग) जन्म-तिथि (घ) राष्ट्रीयता भारतीय

(ङ) पारपत्र सं. निर्गम तिथि निर्गम स्थान

(च) पेशा

(छ) पता ग्राम - जामरापुर, बार्ड नं. 10, थाना - सुरली गंज, जिला - मधेपुरा

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
MADHEPURA SCORE, MADHEPURA

भारत

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Ar. E. M. 21/03/09

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शिव मे,

श्रीमान चानाध्यक्ष महोदय,
मुल्मीन (मधुपुर)

महोदय,

निवेदन के साथ सूचित किया है कि मैं
संजय कुमार शर्मा, पिता- श्री सुखदेव शर्मा
पिता- मधुपुर, वार्ड सं 10. चाना- मुल्मीन, जि. मधुपुर। दिनांक- 20/03/09 को रात्रि लगभग 11.2
बजे के आस पास नारायण टिक्का मोटर साईं डिप डिप
BR43A-0251 में निवास स्थान द्वारा 3 किलो
साईं डिप चोरी हो गया। साथ ही मेरे घर के आस
पास कुम्हड़ भवन, पिता- श्री सुखदेव शर्मा का
पिता- मधुपुर, वार्ड सं 10. चाना- मुल्मीन, जि. मधुपुर का
घर के कमरे में रखा टिक्का मोटर साईं डिप
BR 43A-3805 में चोरी की 3 किलो साईं
कि. म. मोटर साईं डिप नं. BR 43A-3805
दिन समय पर ही ले जाया है।

Registered Madhupur P.S. Case No. 45709
dt 21/3/09 u/s Sec 420, 421, 424, 425, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000



21/3/09
Shiv Meher Singh

आपका आग्रह है उचित कार्रवाई
की जाएगी।

- ① वाईनेरि कारेंग साह
दि. नं. HLS1007042
वे. सी. नं. HL68004698
- ② सुभाष चंद्र शर्मा शर्मा
दि. नं. HA12EB89D02790
वे. सी. नं. MBLHA12EB89D02727211

Est-1
20-3-11

निरासमान
संजय कुमार शर्मा
पिता- श्री सुखदेव शर्मा
पिता- मधुपुर, वार्ड सं 10
चाना- मुल्मीन
21/03/09

सेवा में,

श्रीमान धानाध्यक्ष महोदय,

मुस्लीगंज । मधोपुरा ।

महाभाग,

निवेदन के साथ सूचित करना हेकि मैं संजय कुमार भागत

पिता श्री फ़ोश्वर प्रसाद भागत ग्राम जयरामपुर वार्ड नं० 10, धाना मुस्ली

गंज, जिला- मधोपुरा- दिनांक 20.3.09 को रात्रि लगभग 12 बजे

के बाद मेरा क्नाई टिक मोटर साइकिल जिसका नं० पी० आर० 43 ए-

0251 मेरे निवास स्थान करवाजा से उक्त मोटर साइकिल चोरी हो गया

साथ ही मेरे चोरे भाई संतोषा कुमार सुमन पिता श्री जमेश प्रसाद भाग

भागत ग्राम जयरामपुर वार्ड नं० 10 धाना मुस्लीगंज जिला- मधोपुरा

का एक स० जी० मोटर साइकिल नं०बी० आर० 43 ए- 3805 भी चोरी

हो कर उक्त स्थान एवं समय पर लसे ले गयाहै।

अतः अनुरोधहै कि उचित कानूनी कार्यवाही करने की कृपा

की जाय।

विश्वासभाजन

ह०/- संजय कुमार भागत

पिता श्री फ़ोश्वर प्रसाद भागत

ग्रामजयरामपुर वार्ड नं० 10

धाना वो पो० मुस्लीगंज

21.3.09

1- काइनेटिक का रंग लाल

ई०नं० एच स्ल 51007042

चेचीस नं० एच स्ल 68004698-

2- सप्लेन्ड रंग काला

इ०न० एच ए 12 ई बी 89डी डी 2798

चेचीस नं० एम बी स्ल एच ए 12 ई डी 89डी 027272*

2.

रजिस्टर्ड मुस्ली गंज पी० एस० के० नं० 45/09 दिनांक 21.3.2009

यू० एस० 379/ आई पी सी आई रिकल इन्फिन्सटिगेट की के०

ह०/- अस्पष्ट

21.3.09

एस० एच० ओ० मुस्ली गंज पी० एस०

के.

24-11-15

47, प्रपत्र सं०-118

(4)

परवाजा से मोटर साइकिल की चोरी करना।

बादी के लिखित आवेदन जो ठाण्डा का मूल साधारण है, की मूल-मूल के साथ-साथ मजदूरी के साथ-साथ दस्तावेज प्रस्तुत हैं।



21/03/09
शान्ति
मुलीगंज

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Guaranteed to be a true Copy
[Signature]

पेशवा
निर्देशिका
24112

गयी कार्रवाई : चूंकि उपर्युक्त सूचना से मद सं० 2 में उल्लिखित धाराओं के अन्तर्गत अपराध किया जाना प्रकट होता है अतः कांड किया गया एवं अनुसंधान प्रारम्भ किया* 21/03/09 पदनाम पु० अणु... का अनुसंधान करने का निर्देश दिया/अनुसंधान करने से इन्कार किया/आधिकारिता के प्रश्न पर... थाना को रेत किया गया। प्राथमिकी परिवार/सूचनादाता को पढ़कर सुनायी गयी। उसने उसे सही रूप में अभिलिखित किया गया, पाकर नार किया और उसकी एक प्रति परिवादी/सूचनादाता को निःशुल्क दी गयी। (Action taken : Since the above report reveals admission of offence (s) u/s as mentioned at Item No. 2, registered the case and took up the investigation/... Rank..... to take up the investigation.)

वादी/सूचना दाता का हस्ताक्षर/अंठा का निशान।

॥ से न्यायालय में प्रेषण की तिथि एवं समय—

COMPARED BY
[Signature]
Comparing Clerk

21/03/09
थाना प्रभारी का हस्ताक्षर

नाम (Name)..... (शान्ति मजदूर)

पदनाम (Designation)..... शान्ति मुलीगंज थाना

Annexure - 2

16

Schedule 2

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
MADHEPURA SCORE, MADHEPURA

भारत STAMP DUTY

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Authorization No. 2037

आवेदन नं. 374/2009
APPLICATION FOR INFORMATION

Number and Date	Name and residence of applicant	Nature of Information required	On which the information is to be furnished	Signature of officer receiving the application	Remarks
31-01-2012	रविंद्र कुमार सुबिहारा बिहार, मधेपुरा	भू जमाना चिह्न कि आ बाट में अभिलेख सूची क्रमांक 310181 मधेपुरा रिहास फरमा	महलय. S.P. 374/09 में रिहास 9-11-09 में रिहास फरमा अभिलेख सूची क्रमांक 310181 मधेपुरा में रिहास फरमा S.P. 374/09 में रिहास फरमा	रविंद्र कुमार 2-2-12	Rabinendra Kumar

Received from
of Date
Dated

Information received Application No.-
Delivered 2-2-12 of information which will be ready on
200 2-2-12 Clerk in charge

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अपलिकेशन क्रोन इमप्लोरेशन

1- नम्बर ऑफ डेट - 31.1.2012

2- नाम और पता -

रवीन्द्र कुमार अधिवक्ता

सिबिलकोर्ट - मधोपुरा।

3- ने ऑफ इमप्लोरेशन -

में जानता चाहता हूँ कि इस बाद में अभियुक्त संजीव कुमार

यादव उर्फ डालडा यादव का रिमांड किया गया है।

4- महाशय =

सस 0 आर 0- 374/ 09 में दिनांक 9.11.09 के फोटो कापी के.

आदेशानुसार अभियुक्त संजीव कुमार यादव उर्फ डालडा-यादव ने सस

9.11.09 में सस आर- 374 में रिमान्ड किया गया है।

ह/ - अस्पष्ट

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5- सिगनेचर

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पञ्जाब प्रशासनिक सेवा, लखनऊ

GR-374/09

रजम

GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
MADHEPURA SOUVE. MADHEPURA

COURT FEE

Authorization No. 374150

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GR-374/09

शरजीव कुमार

Court of Justice

753-4400

30-4-11

Case record put up before the
Jail Lok Adalat, Dist. Jail, Madhe-
pura.

Both the accused persons
in custody namely - Sanjeev Kumar Yadav
& Dalda Yadav and Vrlash mahlo-
appeared before the Lok Adalat.
Out of them, one accused namely
Sanjeev Kumar Yadav & Dalda Yadav
confessed his guilt of the charge
of offence U/S 379 SPC voluntarily.
His confessional statement has
been recorded. On the basis of his
confession and after due perusal
of case record the commoanand
Sanjeev Kumar Yadav & Dalda Yadav
is held guilty of the charge of
offence U/S 379 SPC and accordingly
he is sentenced to undergo S-I
for 1 1/2 years. The period already
undergone in jail custody in connec-
tion with this case shall be set
off. Let the conviction warrant
duly signed on with seal of the
court be sent to the Superintendent
Jail, Madhepura.



Certified to be a true Copy
M/s 76

Member
Jail Lok Adalat

COMPARED BY
24112
Recording Clerk

66
24-1-12

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Annexure-1

NYAYALAY Sri Avinash Sharma, J.M. 1st Class, Madhepura

G.R.No. 374/09

State-Versus- Sanjeev Kumar Yadav & Dalda Yadav & Ors.

30.4.11. Case record put up before the Jail Lok Adalat,
District Jail, Madhepura.

Both the accused persons in custody namely Sanjeev Kumar Yadav & Dalda Yadav and Vikash Mahto appeared before the Lok Adalat. Out of them, one accused namely Sanjeev Kumar Yadav & Dalda Yadav confessed his guilt of the charge of offence U/S 379 I.P.C. voluntarily. His confessional statement has been relieved. On the basis of his confession and after due perusal of case record the accused Sanjeev Kumar Yadav & Dalda Yadav is held guilty of the charge of offence U/S 379 IPC and accordingly he is sentenced to undergo p.w. for 18 years. The period already undergone in jail custody in connection with this case shall be set off. Let the conviction warrant duly signed on with seal of the Court be sent to the superintendent of Jail, Madhepura.

Sd/- Illegible,
(Member)
Jail Lok Adalat.

Sd/- Illegible, (Member)
Jail Lok Adalat