

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Appeal No. 701 of 2016**

Awadesh Jaiswal @ Babua S/o Gupta Jaiswal, aged about 24 years,  
presently R/o village Navagarh, Mahamaya Road, Ambikapur, PS  
Ambikapur, Dist. Surguja, Chhattisgarh.

**---- Appellant**

**Versus**

State of Chhattisgarh through the Station House Officer, Police Station  
AJAK, Ambikapur, Dist. Surguja, Chhattisgarh

**---- Respondent**

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| 24/05/2016 | <p>Shri Jitendra Shrivastava, counsel for the appellant.<br/>Shri P. K. Bhaduri, G.A. for the State on advance copy.</p> <p>Heard on admission.</p> <p>The instant Criminal Appeal has been preferred within its<br/>limitation.</p> <p>The Appeal is admitted for consideration.</p> <p>Issue notice to the State/respondent.</p> <p>Shri Bhaduri accepts notice on behalf of the State.</p> <p>Records of the Court below be called for through usual and<br/>fax mode.</p> <p>Also heard on I.A. No. 03/16 for urgent hearing and I.A.<br/>No.2/16 for hearing the matter during summer vacation.</p> <p>On due consideration, both the applications are disposed<br/>of.</p> <p>Also heard on IA No.01/2016, application under Section<br/>389 of CrPC for suspension of sentence and grant of bail to the<br/>appellant.</p> |  |

Counsel for the appellant submits that the appellant held convicted by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Surguja Ambikapur (CG) in Spl. S.T. No. 90/2013 vide judgment dated 18.05.2016 for the offence under Section 313 of IPC and sentenced to undergo R.I. for three years and to pay fine of Rs.5,000/-, in default of payment of fine to further undergo RI for one year. Against the said judgment passed in Spl. S.T. No. 90/2013, the appellant has preferred the instant Cr. Appeal.

It is submitted by the counsel for the appellant that during trial the appellant had remained in custody from 24.07.2013 to 12.09.2013 i.e. for one month 19 days and after pronouncement of the judgment, the appellant was granted bail by the trial Court for a limited period. He further submits that the appellant has deposited the entire fine amount and he has a good case to argue. Hence, the sentence awarded to the appellant may be suspended during the pendency of this appeal and he may be released on bail.

On the other hand, learned counsel for the State opposed the bail application.

On due consideration of the facts that the appellant has been sentenced RI for 3 years only and he has already served the jail sentence for one month 19 days, the Court below upon considering entire facts granted bail to him for a limited period, there is no any criminal past shown in the impugned judgment, he has deposited the fine amount and has a good case to argue, I am of the opinion that present is a fit case to suspend the substantive jail sentence imposed upon the appellant. Consequently, IA No.01/2016 is allowed.

It is directed that execution of substantive jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on

furnishing a personal bond of Rs.25,000/- with one solvent surety of the like amount to the satisfaction of the Special Judge, SC ST (Prevention of Atrocities) Act, Sarguja, Ambikapur (CG) for his appearance before the said trial Court on **7th July, 2016** and thereafter he shall continue to appear before the said trial Court on all such subsequent dates as are given to him by the said Court, till the disposal of this appeal.

The trial Court is directed that in case the appellant fails to furnish bail bonds before 7th July,2016, the trial Court is not required to release him unless he gets the date extended which is given to him for his appearance before the trial Court by this Court.

The trial Court is further directed to intimate the Registry of this Court as to whether in compliance of this Court's order, the appellant has been released on bail or not or the appellant failed to submit the bail bond, within 15 days of its compliance.

The Registry is directed to list this Cr. Appeal for final hearing in due course.

Sd/-

**(Chandra Bhushan Bajpai)**  
**Vacation Judge**

