

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 144 of 2019

Sahadan Gond S/o Rigu @ Harichandra Gond Aged About 25 Years R/o Village Khumri, P. S. Rajpur, District Balrampur-Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh Through P. S. Rajpur, District Balrampur-Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Respondent

26/03/2019	<p>Shri Kalyan Kalamkar, counsel for the appellant.</p> <p>Shri Suryakant Mishra, Panel Lawyer for the State.</p> <p>Heard on IA No.1/19, application for suspension of sentence and grant of bail to appellant.</p> <p>The appellant has been convicted under Section 302 IPC and sentenced to undergo life imprisonment and fine of Rs.200/-, in default of payment of fine, additional R.I. for 1 month vide judgment of conviction and order of sentence dated 04.12.2018 passed in ST No.110 of 2013 by learned Additional Sessions Judge, Ramanujganj, District-Balrampur-Ramanujganj (CG).</p> <p>Learned counsel for the appellant would argue that there is no eyewitness in the present case and the so called eyewitnesses have turned hostile. It is next argued that even according to the case of the prosecution, the deceased sustained rib fracture in her chest resulting in internal bleeding and death. According to prosecution case, the appellant had given blow with the help of wooden log used for agricultural equipment on the allegation that the deceased had sold rice</p>

kept in the house and consumed liquor by purchasing the same from sale proceeds of rice. Therefore, in these circumstances, present would only be a case of commission of offence under Section 304 Part-II IPC. He submits that as the appellant has already undergone sentence of 6 years, at this stage, he may be granted bail.

On the other hand, learned counsel for the State opposed the application. He submits that even though there is no eyewitness, the circumstances of the case proved that the appellant had assaulted his own mother with the help of a wooden log on certain allegation. This resulted in injury in the ribs and because of internal injury, appellant's mother died. Therefore, the appellant is not entitled to grant of bail.

Taking into consideration the submissions made by learned counsel for the parties, taking into consideration the prosecution story of appellant assaulting his mother with an agricultural equipment (wooden log) on her chest resulting in fracture of 2-3 ribs and thereby internal rupture and bleeding leading to her death and that the appellant has already undergone 6 years RI and submission that it is an arguable case of conversion of conviction into Section 304 Part-II IPC, we are inclined to allow the application.

Accordingly, the application is allowed. It is directed that the substantive jail sentence imposed upon the appellant shall remain suspended during pendency of the appeal and he shall be released on bail on his furnishing a personal bond of Rs.25,000/- along with two local sureties of the like amount to the satisfaction of the concerned trial Court, for his appearance before the concerned trial Court on **17th May 2019** and on all such further dates as may be directed by the said Court, interval being not less than 6 months, till final disposal of this appeal.

Post this appeal for final hearing.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge