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2026:CGHC:32257-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 222 of 2026

Digvijay Uike S/o Late Shri Sugriv Uike Aged About 22 Years R/o Wasdi, P.S. Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh.

... Appellant(s)

versus

State of Chhattisgarh Through Station House Officer, P.S. Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh.

... Respondent(s)

For Appellant(s) : Mr. Virendra Kumar Janardan, Advocate.

For Respondent(s) : Mr. Ashish Shukla, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

28/07/2026

1. Heard Mr. Virendra Kumar Janardan, learned counsel for the appellant as well as Mr. Ashish Shukla, learned Additional Advocate General for the State/respondent.
2. Today, the matter is listed for hearing on I.A. No.02/2026 which is an application for suspension of sentence and grant to the appellant, however, considering the fact that the appellant is in jail since 15.12.2019 and with the consent of learned counsel for the parties, the appeal is heard finally.

3. This criminal appeal filed by the accused/appellant under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhina, 2023 (*for short*, 'BNSS') is directed against the impugned judgment of conviction and order of sentence dated 22.03.2025 passed by the learned First Additional Sessions Judge, Rajnandgaon, District Rajnandgaon, in Sessions Trial No. 29/2020, whereby the accused/appellant has been convicted and sentenced with a direction to run both the sentences concurrently in the following manner :

Conviction Under Section	Jail Sentence	Fine	Default Jail Sentence
302 of the Indian Penal Code	Life imprisonment	Rs. 2000/-	3 months R.I.
201 IPC	3 years	Rs. 500/-	1 month R.I.

4. The prosecution case, in brief, is that on 07.12.2019, an information was received over telephone that the dead body of an unknown person was lying in the forest of village Mongra Munjal, covered with bushes and soaked in blood. Acting upon the said information, the Police proceeded to the spot along with the staff and verified the information. On the report of the complainant, Ishwar Ram Deshmukh (PW-19) of village Mongra, a Merg was registered and an inquiry was conducted. As, *prima facie*, it appeared that an offence of murder had been committed, a *Dehati Nalishi* was recorded at the spot and the matter was taken up for investigation. A spot map was also prepared. During investigation, the identity of the deceased was established as Sukhiram Badhwa (*hereinafter referred to as 'the deceased'*), son of Vishwar Badhwa, resident of village Kochinara, Police Station Korchi (Maharashtra), who had left his village on 04.12.2019 on his motorcycle to drop his friend Digvijay Uike @ Gajru, resident of Vasadi, Police Station Ambagarh

Chowki, at his house. From the date of the incident, the appellant had been absconding. During investigation, the post-mortem examination of the deceased was conducted at the Community Health Centre, Ambagarh Chowki. Blood-stained and plain soil were seized from the place of occurrence.

5. The prosecution case further is that, in the post-mortem report, the Doctor opined that the death of the deceased was caused by head injury and that the death was homicidal in nature. Thereafter, the suspect was searched for and, on 14.12.2019, the appellant was apprehended after laying a cordon on the Mongra Munjal road. On being interrogated regarding the incident, he allegedly confessed to having committed the offence and, in his memorandum statement, stated that on the evening of 04.12.2019, after consuming liquor with the deceased, he murdered him by striking his head with a stone in the Mongra Munjal forest out of greed for money and thereafter took away his mobile phone and motorcycle. Pursuant to the said memorandum statement, and at the instance of the appellant, the mobile phone of the deceased, Hero Honda Passion Pro motorcycle bearing Registration No. CG-04/DJ-6126, the stone allegedly used in the commission of the offence, and the clothes worn by the appellant at the time of the incident were seized and seizure memos were prepared. Further, on being produced by Ramu Badhwa (PW-2), the zimmanama (custody document), sale receipt and copy of the registration certificate of the said Hero Honda Passion Pro motorcycle bearing Registration No. CG-04/DJ-6126 were seized. The clothes allegedly worn by the appellant at the time of the incident and the other seized articles were sent to the Forensic Science Laboratory, Raipur, for examination. As sufficient evidence was found against the appellant, he was arrested and information regarding his arrest was furnished to his

family members.

6. Upon completion of the investigation, a charge-sheet against the appellant for offences punishable under Sections 302 and 201 of the Indian Penal Code was filed before the Judicial Magistrate First Class, Rajnandgaon, which was registered as Criminal Case No. 87/2020, who further committed the case to the Court of Sessions, Rajnandgaon, under Section 209 of the Cr.P.C vide order dated 25.11.2020. The case was thereafter received by the learned trial Court which was registered as Sessions Trial No. 29/2020.
7. Charges under Sections 302 and 201 of the IPC were framed against the appellant which were read over and explained to him. The appellant denied the charges and prayed for trial.
8. In support of its case, the prosecution examined prosecution witnesses Kishun Ram Chaure (PW-1), Ramu Badhwa (PW-2), Madan Krishna Badhwa (PW-3), Shravan Ghawde (PW-4), Sanjay Vishwas (PW-5), Constable Mukesh Kumar Thakur (PW-6), Ganesh Vishwakarma (PW-7), Neelkamal Gond (PW-8), Smt. Harila Bai (PW-9), Gautam Mandal (PW-10), Hirabati Chaure (PW-11), Chandan Shankar Yadav (PW-12), Manoj Thakur (PW-13), Ramdayal (PW-14), Dr. R.R. Dhurve (PW-15), Patwari Dharmendra Pausharya (PW-16), Dr. Gulshan Netam (PW-17), Inspector Komal Prasad Rathore (PW-18), and Ishwar Ram Deshmukh (PW-19), whereas no witness was examined on behalf of the appellant in his defence. The prosecution exhibited as many as 59 exhibits and 2 Articles in its support.
9. In his examination under Section 313 of the Cr.P.C., the appellant stated that he was innocent and had been falsely implicated because of enmity. When called upon to enter his defence, he expressed that he did not wish

to adduce any defence evidence.

10. The learned trial Judge, after considering the statement of witnesses and evidence available on record, convicted and sentenced the appellant/appellant as detailed in the opening paragraphs of this judgment. Hence, the present appeal by the appellant/convict.
11. Mr. Virendra Kumar Janardan, learned counsel appearing for the appellant/convict submits that the impugned judgment of conviction and order of sentence passed by the learned trial Court are contrary to law, facts and the evidence available on record and, therefore, deserve to be set aside. There is no eye witness in the present case and the case is based on circumstantial evidence and last seen theory. It is submitted that the learned Trial Court has failed to appreciate the evidence in its proper perspective and has recorded the findings of guilt on the basis of conjectures and surmises. The prosecution has failed to establish the guilt of the appellant beyond reasonable doubt; however, the learned trial Court has overlooked the material contradictions, omissions and improvements in the testimony of the prosecution witnesses. It is further submitted that the evidence of the prosecution witnesses does not inspire confidence and suffers from material inconsistencies, which have not been duly considered by the learned Trial Court. The learned Trial Court has also failed to appreciate that the medical, forensic and other circumstantial evidence do not conclusively corroborate the prosecution case. The alleged recoveries have not been proved in accordance with law and the investigation suffers from material infirmities and procedural lapses, thereby rendering the prosecution case doubtful. The findings recorded by the learned Trial Court are thus perverse, being unsupported by the evidence on record and contrary to the settled principles

governing appreciation of evidence in criminal cases. Hence, he prays that the impugned judgment of conviction and order of sentence be set aside and the appellant be acquitted of all the charges.

12. On the other hand, Mr. Ashish Shukla, learned Additional Advocate General appearing for the State/respondent submits that the impugned judgment of conviction and order of sentence passed by the learned trial Court are well reasoned, based on proper appreciation of the oral as well as documentary evidence, and do not suffer from any illegality, perversity or infirmity warranting interference by this Court. It is submitted that the prosecution has successfully established the guilt of the appellant beyond reasonable doubt by leading cogent, reliable and trustworthy evidence. The learned Trial Court has meticulously analysed the testimony of the prosecution witnesses which stands duly corroborated by the medical, forensic and scientific evidence on record. The alleged contradictions, omissions and discrepancies pointed out by the appellant are minor and natural in nature, which do not go to the root of the prosecution case and do not affect its credibility. The appellant has failed to offer any plausible explanation regarding his presence at the place of occurrence or the incriminating circumstances appearing against him, including the presence of blood on his clothes and the stone and the motorcycle recovered at his instance. The findings recorded by the learned Trial Court are based upon a comprehensive and correct appreciation of the entire evidence on record and are in consonance with the settled principles governing criminal jurisprudence. The prosecution has proved all the essential ingredients of the offences beyond reasonable doubt, and the appellant has failed to demonstrate any material illegality, misreading of evidence or perversity in the findings recorded by the learned Trial Court. The appeal, being devoid of merit,

deserves to be dismissed and the judgment of conviction and order of sentence passed by the learned Trial Court deserve to be affirmed.

13. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
14. There is no dispute with regard to the fact that the death of the deceased was homicidal in nature. This issue has not even been seriously disputed by the learned counsel for the appellant.
15. Ishwar Ram Deshmukh (PW-19), the complainant, deposed that about 3-4 years prior to his testimony, village women, while collecting firewood in the Mongra-Munjal forest, noticed an unidentified dead body and informed him in the evening. On the following morning, i.e., 07.12.2013, he, along with Manoj Sahu, Ramtuk Kujam and other villagers, visited the spot to verify the information and found the body of a man wearing a red shirt lying in a forest depression beside the Mongra-Munjal forest pathway, partially concealed beneath bushes near a Fars tree. He noticed blood stains on the body, injuries on the face, blood scattered on the nearby pathway, and drag marks on the ground, indicating that the deceased had been assaulted, murdered, dragged to the spot, and an attempt had been made to conceal the body. Thereafter, the police were informed, reached the spot, and took the body into custody. He further stated that the Dehati Nalishi (Exhibit P-21) was recorded on the basis of the information furnished by him. In his cross-examination, this witness categorically admitted that he had not witnessed the occurrence and had not seen appellant killing Sukhram. He further stated that the village women, who had gone to collect firewood, informed him in the evening about an unidentified person lying dead in the forest, whereupon he

visited the spot on the following day and saw the dead body. Thus, his cross-examination remained consistent with his examination-in-chief and did not bring out any material contradiction affecting his testimony.

16. Manoj Thakur (PW-13) corroborated the testimony of the above witness by deposing that, in 2020, upon being informed by the Up Sarpanch, Ishwar Deshmukh, that a dead body was lying in the forest of village Mongra, he, along with Ramsukh, reached the spot at about 9:00 a.m. The body was covered with leaves, with only the legs visible, following which Ishwar Deshmukh informed the Ambagarh Chowki Police by telephone. In cross-examination, he admitted that he had not witnessed the incident and had only gone to the spot after being informed by the Up Sarpanch. He further affirmed that the deceased was unidentified and that the police were informed by Ishwar Deshmukh, thereby reiterating his examination-in-chief.
17. Ramdayal (PW-14), the Kotwar of the village, deposed that about 4-5 years prior to his deposition, Ishwar Deshmukh (PW-19) informed him that the dead body of an unknown person was lying in the Mongra forest and that the police were on their way. He accompanied the police to the spot, where he found the deceased lying in a supine position near a Karra tree. The police conducted the inquest and sent the body to Ambagarh Chowki for post-mortem examination. Kishun Ram Chaure (PW-1) has deposed that he was present during the inquest proceedings conducted over the dead body of an unknown person. He stated that the deceased appeared to have been murdered by a fatal assault on the head. He proved the notice issued to him under Section 175 CrPC (Ex. P-03) and the inquest report (Ex. P-04), both bearing his signatures. Nothing material could be elicited in his cross-examination to discredit

his testimony.

18. Inspector Komal Prasad Rathore (PW-18), the Investigating Officer, corroborated the prosecution case. He deposed that on 07.12.2019, upon receiving information from Ishwar Deshmukh that the dead body of an unknown person was lying in the Mongra Munjal forest with blood stains and drag marks nearby, he proceeded to the spot along with police staff and villagers. On reaching the scene, he found the dead body concealed in bushes and prepared the merg intimation (Ex. P-18), dead body identification panchnama (Ex. P-11), notices under Section 175 CrPC (Ex. P-03), and the inquest panchnama (Ex. P-04). In cross-examination, he admitted that the merg was registered as Merg No. 75/2019 and that the identification proceedings were conducted on 07.12.2019 at 2:50 p.m. He denied the suggestion that he was absent during the identification proceedings or that he had fabricated Ex. P-11, and his testimony remained consistent throughout.
19. Ramu Badhwa (PW-2), the brother of the deceased Sukhiram, stated in his unchallenged examination-in-chief that he, along with Madan Badhwa, Sanjay Vishwas and others, went to village Mongra and identified the dead body of his brother. Madan Krishna Badhwa (PW-3) also deposed that after receiving information through WhatsApp, he reached the Mongra Munjal forest and identified the deceased as Sukhiram from an old injury mark on his toes, his face, and the clothes he was wearing. He further stated that the police prepared the dead body identification *panchnama* (Ex. P-11) in his presence, which bears his signatures.
20. From the testimonies of the aforesaid prosecution witnesses, it stands proved that Ishwar Ram Deshmukh (PW-19), on receiving information

from the village women that the dead body of an unknown person was lying in the Mongra Munjal forest, went to the spot with Manoj Thakur and Ramtuk Kujam and found the body concealed beneath bushes. After he informed the police, the Investigating Officer, Komal Prasad Rathore (PW-18), along with the police party and Kotwar Ramdayal (PW-14), reached the spot and recorded the merged intimation and Dehati Nalishi. During the identification proceedings (Ex. P-11), Ramu Badhwa (PW-2) and Madan Krishna Badhwa (PW-3) identified the deceased as Sukhiram Badhwa by his face, clothes, ear ornament (Rakutti), and an old injury mark on the toes of his right foot. Thereafter, the Investigating Officer issued notices to the panch witnesses (Ex. P-03) and prepared the inquest panchnama (Ex. P-06). On examining the injuries on the deceased's face, head, and body and inspecting the scene, the panch witnesses opined that Sukhiram had been murdered by repeated blows with a hard object and recommended that the body be sent for post-mortem examination to ascertain the exact cause of death.

21. Dr. Gulshan Netam, Medical Officer (PW-17), deposed that on 07.12.2019, the dead body of Sukhiram Badhwa was brought to the Community Health Centre, Ambagarh Chowki, for post-mortem examination by Constable Mukesh Thakur (PW-6) along with the requisite application (Ex. P-13). PW-6 also corroborated that he had transported the dead body for post-mortem and received it back after the examination. During the post-mortem, Dr. Netam found multiple external and internal injuries, including lacerated wounds above the right eye, abrasions, a seven-inch skull fracture, blackening around the left eye, and blood accumulation inside the brain. He opined that the deceased, aged about 25 years, died due to head injury and excessive bleeding, that the death had occurred 3–4 days prior to the examination, and that it

was homicidal in nature. The post-mortem report is Ex. P-13. In cross-examination, he denied that such injuries could result from a fall on uneven, stony ground, though he admitted that the report did not specify the particular weapon used. His testimony remained unshaken, and the prosecution has successfully proved that Sukhram Badhwa's death was homicidal, caused by severe head injury and excessive bleeding.

- 22.** As regards the appellant's complicity in the offence in question, none of the prosecution witnesses claimed to be an eyewitness to the incident. Kishun Ram Chaure (PW-1) admitted that he had no knowledge of the incident, did not know who had killed the deceased, and that the case was initially registered against an unknown person. Ramu Badhwa (PW-2), Madan Krishna Badhwa (PW-3), Shravan Ghawde (PW-4), Sanjay Vishwas (PW-5), Smt. Harila Bai (PW-9), Manoj Thakur (PW-13), Ramdayal (PW-14), and Ishwar Ram Deshmukh (PW-19) all admitted that they had not witnessed the occurrence. Neelkamal Gond (PW-8) and Hirawati Chaure (PW-11) also stated that they had no knowledge of the incident. Sanjay Vishwas (PW-5) further stated that he was deposing at the instance of the villagers and police personnel, though he voluntarily added that the villagers regarded the appellant as a bad character. Thus, the prosecution witnesses did not provide any direct evidence connecting the appellant with the commission of the offence.
- 23.** Thus, from the testimony of the aforesaid prosecution witnesses, it is evident that there is no eyewitness to the occurrence. None of the witnesses examined by the prosecution claimed to have witnessed the incident. The prosecution case, therefore, rests entirely on circumstantial evidence. The next question for consideration is whether the prosecution has proved, beyond reasonable doubt, the circumstances connecting the

appellant with the commission of the offence and whether those circumstances form a complete and unbroken chain leading to the sole conclusion that it was the appellant who murdered the deceased Sukhiram Badhwa and caused the disappearance of the evidence of the offence.

- 24.** Ganesh Vishwakarma (PW-7) deposed that about two years prior to his evidence, the appellant Gajru @ Digvijay Uike took him to the forest between Mongra and Munjal on the pretext of consuming liquor and showed him a dead body concealed beneath bushes. According to the witness, the appellant warned him not to disclose the fact to anyone, failing which he would meet the same fate. Four to five days later, he informed Kotwar Ramdayal (PW-14) and Deputy Sarpanch Ishwar Deshmukh (PW-19) about the incident. In his cross-examination, PW-7 admitted that he was heavily intoxicated and, therefore, did not know much about the incident or the subsequent police proceedings. However, he had made a substantially similar statement before the police (Ex. P-37), recorded on 12.12.2019, wherein he stated that on 04.12.2019, after consuming liquor with the appellant, he was taken to the forest and shown the concealed dead body, and was threatened with dire consequences if he disclosed the fact. The testimony of PW-7, read along with his police statement (Ex. P-37), establishes that the appellant had prior knowledge of the location of the deceased Sukhiram's concealed dead body and disclosed this fact to the witness while threatening him to maintain silence. The appellant has offered no explanation, either in his statement or by leading defence evidence, as to how he acquired such knowledge. This constitutes a significant incriminating circumstance against the appellant and forms an important link in the chain of circumstantial evidence.

- 25.** Ramu Badhwa (PW-2) deposed that on 04.12.2019 at about 3:00 p.m., his brother Sukhiram left village Kochinara with the appellant on Sukhiram's Passion Pro motorcycle (Registration No. CG-04/DJ-6126) to drop the accused at village Mongra. When Sukhiram did not return, PW-2 tried to contact him, but his mobile phone was switched off. Later, after seeing his brother's photograph on WhatsApp, he went to village Mongra with others and identified the dead body. In cross-examination, he denied the suggestion that he had not seen the appellant leave with his brother or that he had omitted this fact in his first police statement. His statement is also reflected in his police statement (Ex. P-29), thereby lending consistency and credibility to his testimony. This evidence establishes the circumstance that the deceased was last seen alive in the company of the appellant shortly before his death.
- 26.** Madan Krishna Badhwa (PW-3) corroborated the testimony of Ramu Badhwa (PW-2) by deposing that on 05.12.2019, Ramu informed him that Sukhiram had left home on 04.12.2019 to drop the appellant Digvijay Uike at his house in village Mongra on his Passion Pro motorcycle and had not returned thereafter. In cross-examination, PW-3 reiterated the same fact, and his police statement (Ex. P-31) is also consistent with his deposition. Although his evidence is hearsay as regards the departure of the deceased with the appellant, it lends corroboration to the prosecution case that Sukhiram was last seen leaving with the appellant on 04.12.2019.
- 27.** Shravan Ghawde (PW-4) also corroborated the prosecution case by stating that on 07.12.2019, Ramu Badhwa informed him that Sukhiram had left on the evening of 04.12.2019 on his Passion Pro motorcycle to drop the appellant, resident of village Mongra, and had not returned

thereafter. He further stated that Sukhiram's mobile phone was found switched off, and he was shown Sukhiram's photograph on WhatsApp. No suggestion was put to this witness in cross-examination to challenge this aspect of his testimony. His police statement (Ex. P-33) is also consistent with his deposition, thereby lending further corroboration to the prosecution's last-seen theory.

- 28.** From the testimonies of the aforesaid prosecution witnesses, it stands proved that on 04.12.2019 at about 3:00 p.m., the deceased Sukhiram left village Kochinara with the appellant on his Passion Pro motorcycle bearing Registration No. CG-04/DJ-6126 and did not return thereafter. This establishes the "last seen together" circumstance, namely, that the deceased was last seen alive in the company of the appellant shortly before his death. This constitutes a significant incriminating circumstance pointing towards the appellant's involvement in the commission of the offence.
- 29.** The prosecution has further proved that, during the investigation, the Investigating Officer, Komal Prasad Rathore (PW-18), registered Crime No. 238/2019 under Sections 302 and 201 IPC against an unknown accused (Ex. P-20) and recorded the Dehati Nalishi (Ex. P-21). He also recorded the statements and supplementary statements of the prosecution witnesses on 07.12.2019. As these statements disclosed that the deceased had last left with the appellant on the same motorcycle and had not returned thereafter, suspicion naturally focused on the appellant. PW-18 further deposed that, while searching for the unknown accused, he received information from an informer that the suspect was likely to be found near the Mongra-Munjal forest. Acting on this information, he, along with the police staff and witnesses, proceeded to

the spot, where the appellant was apprehended and interrogated. This version was corroborated by Ramu Badhwa (PW-2), who stated that the police informed him that the accused involved in deceased's murder was expected to come near Mongra-Munjal, whereupon he and others went to the spot and, along with Ishwar Deshmukh and the police, apprehended the appellant on the Munjal road.

- 30.** Madan Krishna Badhwa (PW-3) and Shravan Ghawde (PW-4) corroborated the testimony of the Investigating Officer and Ramu Badhwa (PW-2). They deposed that, on receiving information from the police that the appellant was likely to come near village Mongra, they reached the spot along with other villagers, where, with the assistance of the Ambagarh Chowki police, the appellant was apprehended near the Munjal road. Thus, the testimonies of these witnesses consistently establish that, acting on information received during the investigation, the police, in the presence of independent witnesses, apprehended the appellant near the Mongra-Munjal road.
- 31.** Inspector Komal Prasad Rathore (PW-18), the Investigating Officer, deposed that after his apprehension, the appellant made a memorandum statement (Ex. P-07) under which he disclosed that on 04.12.2019 he had requested Sukhiram Badhwa, whom he knew, to drop him home on Sukhiram's Passion Pro motorcycle after returning from his maternal aunt's house in village Murmahi. He further disclosed that both of them consumed liquor at the house of Roopsingh Gond in village Munjal, after which he murdered Sukhiram, took away his mobile phone and motorcycle, kept the mobile phone at his house in Vasadi, changed his clothes after concealing the clothes worn during the incident in the motorcycle's dickey, and left the motorcycle at Gautam Bengali's garage

in village Murum for sale. The appellant further disclosed that he had concealed the stone used in the assault near the deceased's body and offered to get the stone, mobile phone, motorcycle, and his clothes recovered. The memorandum statement is Ex. P-07, bearing the Investigating Officer's signatures and the appellant's left thumb impression.

- 32.** Ishwar Ram Deshmukh (PW-19), a witness to the memorandum statement, confirmed in his further examination that the appellant disclosed that he had concealed the stone used to murder Sukhram Badhwa near the dead body, kept the deceased's mobile phone at his house in Vasadi, and stored the motorcycle and the clothes worn during the incident at the Bengali garage in village Murum. Ramu Badhwa (PW-2) also corroborated that the appellant was brought to the platform in village Mongra and interrogated there. Thus, the prosecution has duly proved that the appellant made the disclosure statement (memorandum) as recorded in Exhibit P-07.
- 33.** Inspector Komal Prasad Rathore (PW-18), the Investigating Officer, deposed that on 14.12.2019, pursuant to the memorandum statement of the appellant, led the police and witnesses to effect several recoveries. From the Mongra-Munjhal forest, he recovered a stone weighing about 5 kg bearing blood-like stains, which was seized under seizure memo (Ex. P-08). From his house at village Vasadi, he produced a white Intel mobile phone with two SIM cards, which was seized under seizure memo (Ex. P-09). Thereafter, at village Murum, Police Station Hindora, District Gadhchiroli, he produced the deceased's Passion Pro motorcycle (Registration No. CG-04/DJ-6126), along with a white-and-black full-sleeved T-shirt and a brown full-length trouser, both bearing blood-like

stains. These articles were seized and sealed under seizure memo (Ex. P-10). All the seizure memos bear the signatures of the Investigating Officer and the thumb impression of the appellant.

- 34.** Corroborating the Investigating Officer, Ramu Badhwa (PW-2), a witness to the seizure proceedings, deposed that, pursuant to the appellant's disclosure, the appellant recovered the blood-stained stone from the bushes at the very place in the Mongra-Munjhal forest where Sukhram had been killed, and the police seized it in the presence of himself and Ishwar Deshmukh. Thereafter, the appellant led the police to his house at village Vasadi and produced the deceased Sukhram's mobile phone, which was seized. The appellant further produced the deceased's Passion Pro motorcycle and the blood-stained clothes worn by him at the time of the incident from the motorcycle's dickey, and these articles were also seized in the presence of the witnesses. In cross-examination, PW-2 denied the suggestions that he was not present during the recoveries or that no interrogation or seizure had taken place in his presence, and his testimony remained unshaken.
- 35.** Ishwar Ram Deshmukh (PW-19), who is also a witness to the seizure memos, corroborated the testimony of the aforesaid prosecution witnesses by stating that, on the basis of the memorandum statement of appellant, the above-mentioned articles were recovered from him. In his cross-examination also, he specifically stated that he had again gone to the forest along with the police about one week later. Thus, the testimony of this witness also remained unshaken during cross-examination.
- 36.** In this regard, Gautam Mandal (PW-10), a motor mechanic, also corroborated the testimony of the aforesaid prosecution witnesses. In his examination-in-chief before the learned trial Court, he stated that he

knew the appellant present in Court. He does not know or identify the deceased Sukhiram Badhwa. He has been running a motorcycle garage at village Murum since the year 2012. He further stated that the incident pertains to the year 2019. The appellant, along with another person from village Murum, came to his garage on a Passion Pro motorcycle, the registration number of which he does not now remember. The appellant got the said motorcycle repaired at his garage. Since no bill was available, the motorcycle was left at his garage. Appellant told him that he would return after 10–15 days with the money and take back the motorcycle. The appellant also told him that he wanted to sell the motorcycle. When he asked for the documents relating to the motorcycle, the appellant told him that the documents belonged to him. He informed the appellant that he would let him know if he found a purchaser for the motorcycle. Thereafter, the appellant never returned to his garage. About 8–10 days later, the appellant came to his garage at village Murum along with police personnel, and the police seized the motorcycle and took it away with them. This witness further stated that the police had questioned him, and apart from that, he had nothing further to state. In cross-examination, he admitted that the said motorcycle had been got seized by the appellant before the police on 14.12.2019. In his cross-examination, this witness also admitted that about 8–10 police personnel had come to his garage. This witness made the same statement during investigation in his police statement as he made in his examination-in-chief. Therefore, there is no reason to disbelieve the testimony of this witness. Accordingly, the prosecution has succeeded in proving that the memorandum statement of the appellant was recorded as per Exhibit P-07, and pursuant to his disclosure, in the presence of witnesses, (i) a five-kilogram stone bearing stains resembling blood was seized as per

seizure memo Exhibit P-08; (ii) one white-coloured Intel company mobile phone was seized as per seizure memo Exhibit P-09; and (iii) one motorcycle, one T-shirt, and one full-length trouser having stains resembling blood were seized as per seizure memo Exhibit P-10.

- 37.** Dr. R.R.Dhruve, Medical Officer (PW-15), deposed that by Letter No. 4092/2019 dated 23.12.2019 issued by the Officer-in-Charge, Police Station Ambagarh Chowki, District Rajnandgaon (Chhattisgarh), his opinion was sought through the Medical Officer, Community Health Centre, Ambagarh Chowki, in connection with Crime No. 238/2019 registered under Sections 302 and 201 of the Indian Penal Code. The query related to the seized stone and sought his opinion as to whether the stone, which bore stains resembling blood, could cause the death of a person if used to inflict injuries. On 27.12.2019, Constable Mukesh Thakur, No. 1352, of Police Station Ambagarh Chowki, produced the sealed stone before him for examination. He opened the sealed packet and prepared his report. He found one brown-coloured, roughly circular, flat stone having a pointed edge, weighing approximately 4.850 kilograms. There was a stain resembling blood on the pointed portion of the stone, which had been encircled with red ink. He advised that the stain resembling blood should be subjected to chemical examination and that only after such chemical examination could it be confirmed whether it was human blood. In reply to the query, he opined that the injuries caused by the said stone could result in the death of a person. He prepared a sketch of the stone, resealed it, and handed it back to the same constable. This medical witness further stated in his examination-in-chief that, on 21.12.2019, the Block Medical Officer, Community Health Centre, Ambagarh Chowki, forwarded to him the shirt and trousers seized from the appellant for examination and opinion. The

query was whether the stains found on the clothes were human blood or not. In response, he stated that he opened the sealed packet, which contained one full-sleeved T-shirt and one pair of trousers. He had recommended chemical examination of those stains. In his cross-examination, the testimony of this witness also remained unshaken. He admitted that he had prepared the diagram of the stone after placing and examining it, and voluntarily clarified that the diagram had been prepared after actually seeing the stone. He admitted that he had not separately marked the stains with letters such as A, B, C, etc., to indicate whether the blood was human blood. He further admitted that, in respect of the blood-stained articles produced before him, he had stated that a proper opinion regarding whether the stains were human blood could only be given after receipt of the chemical examination report. The testimony of this witness is corroborated by Inspector Komal Prasad Rathore (PW-18), who stated that, by letter Exhibit P-47, he had sought a query report from the Medical Officer, Community Health Centre, Ambagarh Chowki, regarding the seized stone. Likewise, by letter Exhibit P-48, he had sought a query report from the Block Medical Officer, Community Health Centre, Ambagarh Chowki, as to whether the stains found on the seized clothes were human blood.

- 38.** Inspector Komal Prasad Rathore (PW-18) further deposed that, under Letter No. Pu.A.Ra./Reader-1/130-B/2020 dated 02.01.2020 (Ex. P-49), the seized articles, including the blood-stained soil, plain soil, stone, and the clothes recovered from the appellant, were sent through Constable Shivleshwar Bhadare to the State Forensic Science Laboratory, Raipur, for chemical examination. The Constable deposited the exhibits at the FSL, obtained the acknowledgment receipt (Ex. P-50), and submitted his arrival report upon return. In cross-examination, the Investigating Officer

admitted that the articles had been forwarded for examination in accordance with Exhibits P-15 and P-17, and his testimony remained consistent. He further stated that he subsequently received the FSL report (Ex. P-51). A perusal of the FSL report (Ex. P-51) shows that human blood was detected on the stone recovered at the instance of the appellant as well as on the T-shirt recovered pursuant to his disclosure. The appellant has neither offered any explanation for the presence of human blood on these articles nor rebutted this incriminating circumstance by leading any defence evidence. Accordingly, the forensic report provides a further significant link in the chain of circumstantial evidence against the appellant.

- 39.** In the present case, the prosecution has successfully proved the following incriminating circumstances: (i) the appellant took Ganesh Vishwakarma (PW-7) to the place where the deceased's body was concealed, thereby demonstrating prior knowledge of the crime; (ii) the deceased was last seen alive in the company of the appellant; (iii) the appellant made a disclosure statement (memorandum); (iv) pursuant to that disclosure, the stone recovered from the place of occurrence and the T-shirt recovered at the instance of the appellant were found to bear human blood, as confirmed by the FSL report; and (v) the deceased's motorcycle was also recovered at the instance of the appellant. These circumstances form a complete and unbroken chain of circumstantial evidence, leading to the only reasonable conclusion that it was the appellant who murdered the deceased and thereafter concealed his dead body to cause the disappearance of evidence of the offence.
- 40.** From the above analysis, we are of the considered opinion that the prosecution has been successful in proving its case beyond reasonable

doubt and the learned trial Court has not committed any legal or factual error in arriving at the finding with regard to the guilt of the appellant/convict.

41. Accordingly, the appeal being devoid of merit is liable to be and is hereby **dismissed**. The appellant is stated to be in jail. He shall serve out the remaining part of the sentence as has been awarded to him by the learned trial Court.
42. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentences to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
43. Let a certified copy of this judgment alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE