

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 178 of 2017

1. Gopal Negi @ Manbhajan S/o Late Barjo Negi, Aged about 48 Years, R/o Village- Parasapali Schoolpara, Police Station & Tahsil- Pusaur, District Raigarh, Civil & Revenue District Raigarh (Chhattisgarh).
2. Karno @ Karndeo Negi S/o Late Barjo Negi, Aged about 50 Years, R/o Village- Parsapali Schoolpara, Police Station & Tahsil- Pusaur, District Raigarh, Civil & Revenue District Raigarh (Chhattisgarh).

---- Appellants

Versus

- State Of Chhattisgarh Through Police Station- Pusaur, District Raigarh (Chhattisgarh)

---- Respondent

07-03-2017	Shri Manoj Kumar Sinha, counsel for the appellants. Shri Ashutosh Pandey, P.L. for the State. Heard on I.A. No.01/2017, application for suspension of sentence and grant of bail. Issue notice to the State/respondent on the application. Learned State counsel accepts notice on behalf of the State/respondent. By the impugned judgment dated 26-12-2016 passed by First Additional Sessions Judge to the Court of First Additional Sessions Judge, Raigarh (C.G.), in Sessions Trial No.52/2016, the appellants stand convicted for offence punishable under Section 307/34 of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs.500/-, with default stipulation. Learned counsel for the appellants submits that no case under Section 307 of IPC is made out against the appellants on the basis of the evidence of prosecution. Statements of Sukhdeo (PW-2) and Chakradhar (PW-5) make it clear that	
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there was no intention of causing death of the complainant. The incident took place all of a sudden. The medical report of injuries of complainant though mentions of 7 incised wounds but none of the wounds can be considered as fatal. Only one incised wound found on the neck of Sukhdeo can be regarded on vital part but there is no report by the examining doctor that this injury involves the internal organs and was dangerous to life. Report Ex. P-17 given by Dr. Anil Kumar Bhagat (PW-10) mentions the opinion of the doctor that the death of injured could have been caused had he not been treated immediately is a vague report without referring to any of the injuries caused to Sukhdeo (PW-2). It is submitted that at the most, if the prosecution case is accepted as it is, offence could have been made out under Section 324 of the IPC. The trial Court has erroneously recorded the conviction under Section 307 of the IPC. The appellants in jail since 06-02-2016. Hence the appellants are entitled for bail.

On the other hand, learned State counsel while opposing the bail application submitted that the injured witness Sukhdeo (PW-2) and the eyewitness Chakradhar (PW-5) have stated against the appellants about the assault by use of sword which is a dangerous weapon. The medical evidence also supports the version of Sukhdeo (PW-2), hence, the trial Court has rightly convicted the appellants. Therefore, he prayed for rejection of application for bail.

Considering the evidence of prosecution in totality and the fact that the appellants are in jail since the date of their arrest, it appears to be a fit case where the appellants should be enlarged on bail.

Accordingly the application is allowed. It is directed that the jail sentence imposed upon the appellants shall remain suspended till disposal of this appeal and they shall be released on bail on each of them furnishing a personal bond in

the sum of Rs.20,000/- with one surety in like sum to the satisfaction of the concerned trial Court for their appearance before the Registry of this Court on **27-04-2017** and thereafter before the concerned trial Court on a date to be fixed by the Registry and they shall continue to appear before the trial Court concerned, on all such subsequent dates as would be given by that Court till final disposal of this appeal.

List this case for final hearing in due course.

Sd/-

(Rajendra Chandra Singh Samant)

JUDGE