

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

I.A. No. 1 of 2024***In Re:*****CRA No. 262 of 2024**

1. Ganesh Yadav S/o Bachcha Ram Yadav Aged About 53 Years R/o Gokul Ganj Sitamani, Police Station-Kotwali,Korba,District-Korba,Chhattisgarh.
2. Rinku Yadav S/o Ganesh Ram Yadav Aged About 20 Years R/o Gokul Ganj Sitamani, Police Station-Kotwali,Korba,District-Korba,Chhattisgarh.
3. Nitesh Yadav S/o Ganesh Ram Yadav Aged About 26 Years R/o Gokul Ganj Sitamani, Police Station Kotwali, Korba, District- Korba, Chhattisgarh.

---- Appellants**Versus**

State of Chhattisgarh through Police Station Kotwali, Korba, District- Korba, Chhattisgarh.

---- Respondent

(Cause-title taken from Case Information System)

19/04/2024	By the impugned judgment of conviction and order of sentence dated 12.01.2024, the learned Additional Session Judge, FTC, Korba, District - Korba (C.G.) in S.T. No. 25 of 2023, has convicted the appellant for the offence punishable under Section 307/34 of the IPC 1860 and sentenced him to undergo ten-ten years rigorous imprisonment with fine of Rs. 2,000/-2,000/-, in default of payment of fine further rigorous imprisonment for three-three months. Heard Mr. Brijesh Singh, learned counsel for the appellant. Also heard Mr. B.D. Guru, learned Additional A.G, appearing for the State/respondent on the instant application for suspension of sentence and grant of bail (I.A. No. 01 of 2024). Learned Counsel for the convict/appellants has argued that the appellants have been falsely implicated in the present case because of the reason that on the date of incident itself the complainant party of the present case have committed murder of the son of the appellant No. 1 and brother of the appellants No. 2 and 3 for which the complainant party are being prosecuted of the offence of Section 302 of IPC and as a

counter blast they have lodged the the report against the present appellant. He would also submit that the doctor who has medically examined the victim have shown his ignorance as to the primary treatment of the victim. He would further submit that in view of the evidence of the doctor PW-7, the injuries found on the body of the victim was not fatal to life. He further submit that the appellant No. 1 is not named in the FIR and PW-3 who has lodged the report have not supported the contents of the FIR and stated that she only put thumb impression in the FIR. He would also submit that the PW-3 have stated in her deposition that since the complainant party has committed murder of the son of the appellant No. 1 and brother of the appellants No. 2 and 3 therefore the counter report has been lodged against them after two months. He further submit that during trial the appellants were on bail and from the date of judgment from 12.01.2024 they are in jail. The appeal is of the years 2024 and will take its own time for its conclusion, hence the appellant has filed the instant application for suspension of sentence and grant of bail.

Learned counsel for the State/respondent opposes the bail application and It was argued by Mr. B.D. Guru, learned Additional A.G. that from the evidence of the victim PW-5 Pintu Baildar it has been clearly established that on the date of incident the appellants have assaulted the victim by rod, lathi and spade, throw chilly powder on him. He received grievous injuries on his head. The doctor has clearly opined that the injuries are fatal to life and the patient would die if he has not treated in time. He would also submit that the FIR is not encyclopedia therefore if there is name of any of the appellants is not there in the FIR, the same can not be benefited as the involvement of the appellants are there in the statements of the prosecution witnesses as well as the victim himself. Learned counsel for the State also submit that the weapon of the offence has also been seized from the appellants and in a counter case the present complainant party are prosecuted for the commission of offence of murder of the son of the appellant No. 1 and brother of appellants No. 2 and 3 therefore if the appellants were released on bail there would be law and order situation again may create and there is every possibility of any

untoward incident again. He would also submit that the appellant No. 1 having criminal antecedent of the offence under Section 294, 323, 506, 147, 324, 325 of IPC and 25, 27 of Arms Act in the offence of crime No. 1084 of 2022 registered at police Station Kotwali, Korba and therefore the appellants are not entitled for bail.

I have heard learned counsel for the parties and perused the records of the Court below.

Considering the submission made by learned counsel for the parties, considering the evidence of victim as well as other witnesses, also considering the evidence of doctor and his medical report, query report Ex. P-20, the nature of allegation and part played by the appellants, also considering that the appellant No. 1 is having criminal antecedent for the offence of Section 324, 325 of the IPC and 25, 27 of Arms Act, I am not inclined to release the appellants on bail.

Accordingly, I.A. No. 1 of 2023 filed by appellants Ganesh Yadav, Rinku Yadav, Nitesh Yadav stands **rejected**.

Let the matter be listed for final hearing after eight weeks.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**