

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No.634 of 2017

- Tika Ram Nishad @ Tikam S/o Chait Ram Nishad, Aged About 22 Years R/o Village Atariya, Kukurmuda, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh., Chhattisgarh

---- Appellant (In Jail)

Versus

- State Of Chhattisgarh Through Police Of Police Station Kharsia, District Raigarh, Chhattisgarh., Chhattisgarh

---- Respondent

18/01/2019	Shri Govind Dewangan, counsel for appellant/s. Shri Neeraj Mehta, Panel Lawyer for State. Heard on I.A.No.1/2018, an application for suspension of sentence and grant of bail. The appellant has been convicted vide impugned judgment of conviction and order of sentence dated 27-02-2017 passed by the learned Fifth Additional Sessions Judge, Raigarh in Sessions Trial No.124/2016 for the offences punishable under Section 302 of IPC and he was sentenced to undergo Life Imprisonment and fine of Rs.2000/-, in default of payment of fine, he has to undergo additional R.I. for 5 months under Section 302 of IPC. Learned counsel for the appellant submits that the appellant has been convicted on extremely doubtful evidence of last seen and except this, there is no other evidence to involve the appellant in the alleged commission of offence. Learned counsel for the appellant would further argue that the evidence of Khem Kumar Sahu, PW-5 is that the deceased had come to purchase eatables in the dhaba and according to him, he claims to have seen the appellant sitting in the truck standing about 60-70 feet away and the appellant and the deceased consuming liquor near water tank about 80-90 feet away in the night, but, thereafter, as per the evidence of Devram Yadav, PW-8, the deceased had come for loading of

the truck in the plant and had left the plant with loaded truck and there is nothing in the evidence of Devram Yadav, PW-8 that at that time, the appellant was also sitting with him. Therefore, even though, there is no specific evidence of last seen, but only on suspicion, the appellant has been involved.

On the other hand, learned State counsel opposed the prayer for grant of bail by submitting that the evidence of Khem Kumar Sahu, PW-5 shows that at about 11pm in the night, the appellant and the deceased were together and after consuming liquor, they left the dhaba and then the deceased was found dead on the road about 70-80 km away from the power plant and the appellant has failed to explain, where he left the company of the deceased.

Having considered the submission of learned counsel for the parties, particularly taking into consideration the submission that the evidence of Khem Kumar Sahu, PW5, who has seen the present appellant in the night from 60-90 feet away and that almost two hours thereafter, the deceased is said to have left the plant with loaded truck, as deposed by Dev Ram Yadav, PW8 that the appellant is not seen in the company and except this, there is no circumstantial evidence to connect the appellant with the alleged commission of offence, we are inclined to grant bail to the appellant.

Accordingly, the application (I.A.No.1/2018) is allowed. It is directed that the substantive jail sentence imposed upon the appellant shall remain suspended during pendency of this appeal and he shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with two local sureties of the like amount to the satisfaction of the trial Court for his appearance before the concerned trial Court on **25-03-2019** and on all such further dates as may be directed to him, interval being not less than six months, till final disposal of the appeal.

List this matter for final hearing.

Certified copy as per rules.

SD/-
(Manindra Mohan Shrivastava)
Judge

SD/-
(Ram Prasanna Sharma)
Judge