



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 217 of 2021

- Harikrishno Sahu S/o Manijer Sahu, aged about 23 years, R/o Village Chhote Khaira, Police Station- Sarangarh, District Raigarh (C.G.)

----- Appellant

versus

- State of Chhattisgarh, through District Magistrate Raigarh (C.G.)

----- State/Respondent

And

Criminal Appeal No. 240 of 2021

- Vinod Kumar Sahu son of Makund Ram Sahu, aged about 28 years, resident of Village-Chhote Khaira, Police Station Sarangarh, District Raigarh (C.G.)

----- Appellant

versus

- State of Chhattisgarh, through the Station House Officer, Police Station- Sarangarh, District- Raigarh (C.G.)

----- State/Respondent

13/07/2022	Smt. Indira Tripathi, Advocate appears for the appellant in Cr.A. No. 217/2021. Shri Shikhar Sharma, Advocate appears for the appellant in Cr.A. No. 240/2021. Ms. Priyamvada Singh, Deputy Government Advocate for the State. Heard on I.A. No. 01 of 2021 (filed separate in both appeals), applications under Section 389 of Cr.P.C. for suspension of sentence and grant of bail to the appellants. By the impugned judgment of conviction and order of sentence dated 20.01.2021 passed by the Additional Sessions Judge, Sarangarh, District Raigarh (C.G.) in Sessions Trial No. 08/2018, each appellants stand convicted and sentenced as under:



<u>Conviction</u>	<u>Sentence</u>
Under Section 323/34 of IPC (in two counts)	R.I. for three-three months and fine of Rs.500/- – 500/-, in default of payment of fine to further undergo S.I. for fifteen-fifteen days
Under Section 304 Part-I of IPC	R.I. for ten years and fine of Rs.2,000/-, in default of payment of fine to further undergo R.I. for six months
Both the sentences to run concurrently	

Counsel for the appellants submit that there are 25 accused persons have been prosecuted in Sessions Trial No. 08/2018, only four accused persons were convicted and sentenced.

Appellant – Harikrishno has preferred Cr.A. No. 217/2021 and Appellant - Vinod Kumar Sahu has preferred Cr.A. No. 240/2021.

Above both the appeals preferred by the respective appellants arise out of the same judgment of conviction and order of sentence, therefore, applications for suspension of sentence and grant of bail to the appellants are being disposed of by this common order.

Learned counsel for the appellants submit that because of some land dispute, there was quarrel took place between PW-3 Babulal, PW-5 Yadram Sahu & PW-6 Ramlal Sahu and accused persons. When there was a free fight was going on between the accused persons and eye-witnesses, deceased namely Kevra Bai came to intervene between the fight. It is stated that the deceased was hit by the present appellants by *bamboo*-stick as a result of which she sustained injuries and died. They further submit that the eyewitnesses do not inspire confidence because none of the witness has categorically stated that the present appellants hit to the deceased by *bamboo*-stick. Apart from this, seizure witnesses namely PW-17



Umesh Kumar Sahu and PW-21 Pankaj Kumar Sahu have not supported the prosecution case. Therefore, it cannot be stated that the appellants were involved in the crime. Thus, the trial Court committed grave error in relying on the evidence of eyewitness as well as seizure witnesses. They also submit that the maximum sentence awarded to the appellants by the trial Court is of ten years and they suffered for about four & half years of jail sentence

On the other, learned counsel for the State submits that trial Court has properly appreciated the evidence on the basis of eyewitness and the appellants were rightly convicted and sentenced by the trial Court which needs no interference by this Court. Therefore, the applications filed by appellants for suspensions and grant of bail may be dismissed. However, She submits that no FSL report was called and she is not in dispute that appellants have suffered four & half years of jail sentence.

Having considering the facts and circumstances of the case, rival submissions made by the parties, looking to the evidence of eyewitness and seizure witnesses, the appellants have suffered for about four & half years of jail sentence, and that disposal of this appeal is likely to take some time, without further commenting on merit, I am of the opinion that present are the fit cases to suspend the jail sentence imposed upon the appellants and to release them on bail.

Accordingly, the applications (I.A. No. 01 of 2021 filed separate in both appeals) are allowed.

It is directed that the execution of substantive jail sentence imposed upon appellants shall remain suspended during the pendency of both the appeals and they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with two sureties of Rs.25,000/- each to the satisfaction of the trial Court. They shall appear before the Registry of this Court on **29th September, 2022** and thereafter shall appear before the trial Court on a date to be given by the



Registry and shall continue to appear there on all such dates as are given to them by the said Court till disposal of both the appeals.

Certified copy as per rules.

List these appeals for final hearing in due course.

Sd/-
(Sachin Singh Rajput)
Judge

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