

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 820 of 2019

1. Bholi S/o Ant Ram, aged about 23 years,
2. Basant S/o Punnilal, aged about 18 years,

Both are Satnami by Cast and Resident of Village Paraghat, P.S. Masturi,
District- Bilaspur, (C.G.).

-----appellants.

Versus

1. State of Chhattisgarh, Through Police Station- Masturi, District- Bilaspur,
Chhattisgarh.

-----Respondent

31/07/2019	Shri C. K. Keshewani, counsel for the Appellants. Smt. Fouzia Mirza, Addl. A. G. for the State. Heard on I.A. No. 01/2019, application for suspension of sentence and grant of bail to the appellants. By the impugned Judgment dated 29.03.2019 passed by 7th Additional Sessions Judge, Bilaspur, C.G. in Sessions Trial No. 382/2001 the appellants stand convicted and sentenced as under: <table><tr><th>S. No.</th><th>Conviction</th><th>Sentence</th></tr><tr><td>1.</td><td>Under Section 302/34 of IPC</td><td>Life imprisonment and fine of Rs. 700/- on three counts and in default of payment of fine additional R.I. for 6 months on each count.</td></tr><tr><td>2.</td><td>Under Section 323/34 of IPC</td><td>R. I. For 6 months and fine of Rs. 500/- and in default of payment of fine additional</td></tr></table>	S. No.	Conviction	Sentence	1.	Under Section 302/34 of IPC	Life imprisonment and fine of Rs. 700/- on three counts and in default of payment of fine additional R.I. for 6 months on each count.	2.	Under Section 323/34 of IPC	R. I. For 6 months and fine of Rs. 500/- and in default of payment of fine additional
S. No.	Conviction	Sentence								
1.	Under Section 302/34 of IPC	Life imprisonment and fine of Rs. 700/- on three counts and in default of payment of fine additional R.I. for 6 months on each count.								
2.	Under Section 323/34 of IPC	R. I. For 6 months and fine of Rs. 500/- and in default of payment of fine additional								

		Imprisonment for 2 months.
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Initially eight accused persons namely Khikhwa @ Ant Ram, Bholi, Rakesh, Basant, Durga, Vinay Kumar, Punilal and Rangilal were prosecuted for offence under Sections 147, 148, 307/149 and 302/149 of IPC vide judgment dated 11.02.03. The said accused persons were acquitted of the charges vide judgment dated 11.02.03. Against the said judgment complainant Raju, son of the deceased, had filed CRR No.376/2003 before this Court which was partly allowed by this Court on 22.08.2016 and the matter was remitted back for rehearing with a direction to pass the judgment afresh in respect of accused Nos. 1 to 4 namely Khikhwa @ Ant Ram, Bholi, Rakesh and Basant.

Instead of hearing the parties and rendering the judgment afresh, the trial Court conducted *de novo* trial in respect of accused Khikhwa @ Ant Ram, Bholi and Basant. However, since accused No.3 Rakesh was juvenile, his case was transferred to the Juvenile Justice Board, Bilaspur for adjudication. The trial Court vide judgment dated 19.12.2017 convicted accused Bholi and Basant. As accused No.1 Khikhwa @ Ant Ram died, no order of conviction was passed against him. Against the said judgment accused Bholi and Basant preferred CRA No.250 of 2018 before this Court which was disposed of by this Court on 01.11.2018 and the matter was again remitted back to the trial Court with a direction to rehear the matter in terms of the order passed by the High Court in CRR No.376/2003.

After rehearing, the trial Court has now passed the impugned order of conviction. Admittedly, the appellants were on bail during trial as also during the period when CRA No.250/2018 was pending before the High Court. Thus, considering that the appellants were on bail during all these period, we are inclined to suspend the sentence and release the appellants on bail.

Accordingly, the application (IA No. 01/2019) is allowed.

It is directed that the execution of substantive jail sentence imposed upon the appellants **Bholi and Basant** shall remain suspended and they shall be released on bail on their furnishing a personal bond in the sum of Rs. 25,000/-each with one surety like sum to the satisfaction of the trial Court. They shall appear before the trial Court on **15th October, 2019** and thereafter continue to appear there on all such dates as are given to them by the said Court till disposal of this appeal.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

