

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

**CR.A. No. 291 of 2017**

Santosh Dewangan, S/o. Late Kriparam Dewangan, aged about 25 years, R/o. Village- Telangan, Police Station Gendatola, District- Rajnandgaon, Chhattisgarh.

---- Appellant

**Versus**

State of Chhattisgarh, The Station House Officer, Police Station-Gendatola, District- Rajnandgaon, Chhattisgarh.

---- Respondent

<b><u>13/01/2022</u></b>	<p>Mr. Goutam Khetrapal, counsel for the appellant.</p> <p>Mr. R.M. Solapurkar, G.A. for the State.</p> <p>Heard on I.A. No.1/2022, second application under Section 389 of Cr.P.C. for suspension of sentence and grant of bail.</p> <p>The first bail application under Section 389 of Cr.P.C. for suspension of sentence and grant of bail was dismissed as withdrawn with liberty to renew the prayer after two years vide order dated 31.08.2017.</p> <p>Appellant has been convicted by the judgment of conviction and order of sentence dated 18.01.2017, passed in Special Session Case No.17/2016, by the learned Special Judge (Atrocities), Rajnandgaon District- Rajnandgaon (C.G.) in the following manner with a direction to run both the sentences concurrently :-</p> <table border="1"><tr><td>U/s. 302 of the Indian Penal Code</td><td>:</td><td>R.I. for life and fine of Rs.100/- and in default of payment of fine, further undergo 3 months R.I.</td></tr><tr><td>U/s. 3 (2) (v) of S.C.&amp; S.T. (Prevention of Atrocities) Act,</td><td>:</td><td>R.I. for life and fine of Rs.100/- and in default of payment of fine,</td></tr></table>	U/s. 302 of the Indian Penal Code	:	R.I. for life and fine of Rs.100/- and in default of payment of fine, further undergo 3 months R.I.	U/s. 3 (2) (v) of S.C.& S.T. (Prevention of Atrocities) Act,	:	R.I. for life and fine of Rs.100/- and in default of payment of fine,
U/s. 302 of the Indian Penal Code	:	R.I. for life and fine of Rs.100/- and in default of payment of fine, further undergo 3 months R.I.					
U/s. 3 (2) (v) of S.C.& S.T. (Prevention of Atrocities) Act,	:	R.I. for life and fine of Rs.100/- and in default of payment of fine,					

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further undergo 3 months R.I.

Learned counsel appearing for the appellant would submit that the conviction of the appellant under Section 302 of I.P.C. is not at all made out on the basis of the evidence present in this case. The conviction is based only on the evidence of the witness Shivdayal Chandrawanshi (P.W.-6), who has clearly stated that it was the deceased, who went to the house of the appellant in inebriated condition and he abused the appellant, when the incident took place. The appellant without any intention had hit the deceased with wooden piece, which has resulted in his death, therefore, the conviction of the appellant may be at the most under Section 304 Part-II of I.P.C.. The appellant has already undergone more than five years in jail, which is appropriate sentence for the offence he has committed. Therefore, it is prayed that the sentence awarded to the appellant may be suspended and he may be enlarged on bail.

Per contra, the learned State counsel opposes the prayer for suspension of sentence and grant of bail. It is submitted that the prosecution has proved its case beyond reasonable doubt and it is clear case of intentionally causing death of the deceased, therefore, the application be rejected.

Considered on the submissions. Taking into consideration, the statement of Shivdayal Chandrawanshi (P.W.-6) and the doctor conducting the postmortem Dr. Smt. Kiran Chandekar (P.W.-11), we are of the considered view that it is a fit case to suspend the sentence and release the appellant on bail.

Accordingly, I.A. No.1/2022, application for suspension of sentence and grant of bail, is allowed.

Execution of substantive jail sentence imposed on appellant shall remain suspended and he is directed to be released on bail on his executing a personal bond for a sum Rs.50,000/- with one surety for the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on **25<sup>th</sup> April, 2022**. He shall thereafter appear before the trial Court on a date to be given by the

Registry of this Court and shall continue to appear there on all such subsequent dates as are given to him by the said Court, till the disposal of this appeal.

Certified copy as per rules.

Sd/-  
**(R.C.S. Samant)**  
Judge

Sd/-  
**(Arvind Singh Chandel)**  
Judge