

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 523 of 2015

- Dina @ Dinesh Madhvani, S/o Rajkumar Madhvani, aged about 20 years, R/o Ward No. 9 Goddi Dham, P.S. Nevra, District - Raipur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through - PS Nevra, Raipur Distt. Raipur (C.G.)

---- Respondent

And

CRA No. 582 of 2015

1. Ravi Lalwani, S/o Late Natthulal Lalwani, aged about 28 Years, R/o Ward No.9, Tilda Camp, Thana- Nevra, District- Raipur (C.G.)
2. Smt. Pinky Wadhwani, S/o Late Shri Dayanand Wadhwani, aged about 26 years, R/o Ward No. 9, Tilda, Thana – Nevra, District – Raipur (C.G.)

---- Appellants

Versus

- State of Chhattisgarh, Through: Police Station- Nevra, District- Raipur (C.G.)

---- Respondent

And

CRA No. 808 of 2015

- Avinash @ Avi Wadhwa, S/o Rajkumar Wadhwa, aged about 21 Years, R/o Ward Number 11, Setpal Nagar, Police Station Newra, District Raipur (C.G.)

---- Appellant

Versus

- State of Chhattisgarh, Through: P.S.- Newra, District Raipur (C.G.)

---- Respondent

15.10.2015	Mr. L.C. Dash, Advocate for the appellant in CRA No. 523 of 2015. Mr. Anand Dadariya, Advocate for the appellants in CRA No. 582 of 2015. Mr. Kishore Bhaduri, Advocate for the appellant in CRA No. 808 of 2015.	

	Mr. Avinash K. Mishra, Panel Lawyer for the State. As all these three appeals arise out of common judgment dated 17.03.2015 passed by the 6th Additional Sessions Judge, Raipur in Sessions Trial No. 152/2013 convicting the appellants under Section 302 read with Section 120B of the IPC and Section 201 read with Section 120B of the IPC sentencing them to undergo imprisonment for life & to pay fine of Rs.1,000/-, to undergo imprisonment for life & to pay fine of Rs.1,000/- and to undergo R.I. for 3 years & to pay fine of Rs.1,000/-, in default of payment of fine, further R.I. for 05-05 months each, the bail applications I.A. No.01/2015 filed in CRA No. 523 of 2015 and I.A.No. 01/2015 filed in CRA No. 582 of 2015 and I.A. No. 02/2015 filed in CRA No. 808 of 2015 are being disposed of by this common order. Learned counsel for the appellants submit that (i) they have been convicted solely on the basis of circumstantial evidence, but nature of circumstantial evidence is not as	
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	such on which basis they can be convicted. (ii) in respect of appellant – Avinash @ Avi Wadhwa, the only piece of evidence against him is that he was last seen taking the deceased on his motorcycle, but sole eyewitness Savitri Sahu (PW-2) has not supported the prosecution case and has been declared hostile. (iii) in relation to other appellants, they have been roped in the offence on the basis of recoveries of so called SIM card, but none of the SIM card was in the name of the appellants. (iv) the prosecution has utterly failed to prove the evidence as required under Section 65(b) of the Indian Evidence Act. On the other hand, State counsel has opposed the bail applications. We have heard learned counsel for the parties and perused the judgment impugned and record of the Court below. Considering the totality of the case, in particular, the nature of evidence, without further commenting on merits, we are inclined to release the appellants on bail.	
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	Accordingly, I.A. No.01/2015 filed in CRA No. 523 of 2015 and I.A.No. 01/2015 filed in CRA No. 582 of 2015 and I.A. No. 02/2015 filed in CRA No. 808 of 2015 are allowed and it is directed that execution of the jail sentences awarded to the appellants by the trial Court shall remain suspended and they shall be released on bail on their furnishing personal bond in the sum of Rs.25,000/- each with one solvent surety in the like amount to the satisfaction of the trial Court concerned. Appellants are exempted from giving personal appearance any where unless otherwise directed. Sd/- (Pritinker Diwaker) Judge Sd/- (I.S. Uboweja) Judge	
chandra		