



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CR.A. No. 938 of 2020

Jamuna Soni, W/o. Tejendra Soni, aged about 31 years, R/o. Nehru Nagar, Police Station Kotwali, District Raipur Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station - Telibandha, District Raipur Chhattisgarh

---- Respondent

AND**CR.A. No. 560 of 2021**

Vinay @ Vikky, S/o. Late Roshan Valde, aged about 20 years, R/o. Surya Nagar, Gogaon, Police Station Gudiyari, District Raipur Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh, Through : Police Station Telibandha, District Raipur Chhattisgarh

---- Respondent

<u>02/03/2022</u>	Mr. C.R. Sahu, counsel for the appellant (in Cr.A. No. 938 of 2020). Mr. Praveen Dhurandhar, counsel for the appellant (in Cr.A. No. 560 of 2021).



Mrs. Madhunisha Singh, Dy.A.G. for the State.

Heard on applications under Section 389 of Cr.P.C. for suspension of sentence and grant of bail.

Appellants have been convicted by the judgment of conviction and order of sentence dated 20.10.2020, passed in S.T. No.06/2019, by the learned 8th Additional Sessions Judge, Raipur, District- Raipur (C.G.) in the following manner with a direction to run both the sentences concurrently :-

U/s. 120 (B) read with Section 302 of the I.P.C.	:	Life imprisonment and fine of Rs.100/- and in default of payment of fine, further undergo one month rigorous imprisonment more.
U/s. 302 read with Section 34 of the I.P.C.	:	Life imprisonment and fine of Rs.100/- and in default of payment of fine, further undergo one month rigorous imprisonment more.

It is submitted by the learned counsels for the appellants in both the cases that the conviction of the appellants is not based on any evidence of prosecution beyond reasonable doubt. There are no eye-witnesses and the witness Naeem Khan (P.W.-8), the witness of last seen together has clearly stated that in his presence, the deceased fled from the place of incident leaving the company of the appellant Jamuna Soni, therefore, the last seen theory is falsified. The recovery of the knife is not connecting evidence as the FSL



report does not show about the presence of human blood or the blood of the deceased on that knife, hence, the conviction against both the appellants is erroneous. It is prayed that the sentence awarded to the appellants may be suspended and they 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. Last seen theory has been proved by the witness Naeem Khan (P.W.-8). According to the statement of Durga Nayak (P.W.-6), there had been motive present with the appellant Jamuna Soni for causing death of the deceased and also recovery of knife from the appellant – Vinay @ Vikky is connected on the basis of FSL report (Ex.P-28), which mentions about the presence of blood in the knife. Hence, the appellants are not entitled for grant of bail.

We have heard the learned counsel for the parties and perused the records of the trial Court.

Considered on the submissions and perused the evidence present in the record of the case. Considering the same and further taking into consideration the fact that the appellants are in jail since about 4 years, we are of this opinion that it is a fit case to suspend the sentence and release the appellants on bail.



Accordingly, applications for suspension of sentence and grant of bail in both the appeals, are allowed.

Execution of substantive jail sentence imposed on appellants shall remain suspended and they are directed to be released on bail on their executing a personal bond for a sum Rs.25,000/- with one surety each for the like sum to the satisfaction of the trial Court for their appearance before the Registry of this Court on **10th May, 2022**. They 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 them 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