

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 1074 of 2015

Nadhira Kodaku S/O Kayila Kodaku Aged About 35 Years R/O Village Kharsota, P. S. - Rajpur, District - Sarguja (Now Balrampur - Ramanujganj) (Chhattisgarh).

---- Appellant

Versus

State Of Chhattisgarh Through : The Station House Officer, Police Station Rajpur, District - Sarguja (Now Balrampur - Ramanujganj) (Chhattisgarh).

---- Respondent

16.12.2015	Shri Jitendra Shrivastava, counsel for the Appellant. Shri Ashish Surana, Panel Lawyer for the State/ Respondent. Heard on application for suspension of sentence and grant of bail to the Appellant. By the impugned judgment dated 9.10.2009 passed by the Third Additional Sessions Judge, Ambikapur (Sarguja), Chhattisgarh in Session Trial No.425 of 2007, the Appellant stands convicted under Sections 302 and 376(1) of the Indian Penal Code and sentenced to undergo imprisonment for life and to pay fine of Rs.2,000/- on both counts, in default of payment of fine, to further undergo RI for two months. Learned counsel for the Appellant submits that the Appellant has been convicted on the basis of circumstantial evidence but the circumstantial evidence is not of such nature which can be based for convicting the Appellants. He submits	

	that Bihari (PW1) in paragraph 2 of Examination-In-Chief has categorically stated that he failed to identify the man and woman to whom he saw on the date of incident. However, in paragraph 3 upon being asked by the Court he has stated that it was the accused/ Appellant. Learned counsel for the Appellant further submits that the statement of Jagni (PW-5) is also not reliable because Hira Sai (PW-3), husband of Jagni (PW-5) has stated that after consuming excessive liquor deceased Phool Basni and Jagni, slept in his house. On the other hand, Learned counsel for the State has opposed the application. Considering the totality of the facts, particularly nature of the evidence adduced, without further commenting anything on its merits, we are inclined to release the Appellant on bail. Accordingly, the application is allowed. It is directed that the jail sentence imposed upon Appellant shall remain suspended during the pendency of this appeal; and he shall be released on bail on furnishing a personal bond in the sum of Rs.10,000/- with one surety in like sum to the satisfaction of the trial Court. The Appellant need not give appearance anywhere until and unless otherwise directed. Sd/- (Pritinker Diwaker) JUDGE Sd/- (Chandra Bhushan Bajpai) JUDGE	
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