

HIGH COURT OF CHHATTISGARH, BILASPUR

ORDER SHEET

Criminal Appeal No. 866 of 2017

Subhash Bishwal S/o Of Narayan Bishwal, Aged About 30 Years R/o Amritamani, Police Station Ghusuri, District - Bhadralk (Katak), Odisa, At Present P.I.L Champa, District Janjgir - Champa, Chhattisgarh.

Appellant

Versus

State Of Chhattisgarh Through: The Police Station Champa, District Janjgir-Champa, Chhattisgarh.

---- Respondent

And

Criminal Appeal No. 1241 Of 2017

Rajendra Kumar Patel S/o Rajkumar Patel, Aged About 23 Years R/o Village Kotadabri, Police Station Champa, District Janjgir Champa, Chhattisgarh.

---- Appellant

Vs

State Of Chhattisgarh Through The District Magistrate, Janjgir Champa, District Janjgir Champa, Chhattisgarh.

---- Respondent

11.01.2018	Shri Tarun Dadsena and Shri Sumit Singh, counsel for the respective Appellants. Shri Adil Minhaj, Panel Lawyer for the State. Shri Ravindra Sharma, counsel for the Ob ejector. Heard on I.A Nos.1/2017, applications for suspension of sentence and grant of bail.

These Appeals arise out of common impugned judgment dated 5.5.2017 passed by the Sessions Judge, Janjgir-Champa, (CG) in Sessions Trial No.3/2017 wherein, the Accused/Appellants stand convicted under Sections 302/120-B, 120-B & 201 IPC and sentenced to life imprisonment with fine of Rs.2,000/- under Section 302/120-B IPC, to undergo RI for 7 years with fine of Rs.1,000/- under Section 120-B IPC and to undergo RI for 7 years with fine of Rs.1,000/- under Section 201 IPC with usual default stipulations.

Learned Counsel for the Appellants submit that there is no eye witness account to the incident and the Appellants have been convicted solely on the basis of weak circumstantial evidence. It has been argued that the dead body of the deceased was allegedly recovered on the memorandum of Accused/Appellant-Rajendra Kumar Patel, however, the Investigating Officer has admitted the fact that the body was recovered prior to the memorandum of accused/Appaellant-Rajendra Kumar Patel. They further argued that though in the FSL report, blood has been found on the rod seized from accused/Appellant-Subhash Bishwal, but serological report does not confirm the origin of blood. They further submit that the Appellants are in jail since 29.9.2016, the Appeals are likely to take some time for their final disposal and therefore, they may be released on bail.

On the other hand, learned State Counsel and learned Counsel for the Objector opposed the bail application.

We have heard learned counsel for the parties.

Considering the totality of the facts and circumstances of the Case and the nature of evidence adduced by the prosecution, without further commenting on merits, we are of the opinion that present is a fit case to suspend the jail sentence imposed upon the Appellants.

Accordingly, IA Nos.1/2017 are allowed.

It is directed that the jail sentence imposed upon the Appellants shall remain suspended during the pendency of these Appeals and they shall be

released on bail on their furnishing a personal bond in the sum of Rs.50,000/- with one surety each in like sum to the satisfaction of the trial Court. The Appellants need not give appearance anywhere until and unless otherwise directed.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Sanjay Agrawal)
JUDGE