

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1214 of 2015

Musaki Ramaswami S/O Bhima Muriya Aged About 35 Years R/O
Village Cheramangi Police Station Usur Rev. District Bijapur, Civil
District South Bastar Dantewada Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh Through Police Station Usur, Distt. Bijapur
Chhattisgarh.

---- Respondent

04/08/2016	Shri P.K. Tulsyan, Advocate for the appellant. Shri Ravindra Agrawal, Panel Lawyer for the State. Heard on I.A.No.2/2015, application for suspension of sentence and grant of bail to the appellant. The appellant has been convicted for committing murder of deceased – Korsa Bando under Sections 302/120B IPC and sentenced to undergo imprisonment for life and fine of Rs.500/-, in default of payment of fine to further undergo R.I. for 6 months. The case of the prosecution is built upon the statement of eye witnesses PW1, Korsa Arjun and PW-4, Korsa Nagaiya. It is stated by the prosecution that when the deceased was inflicted blow by Santosh, Venkat and Rajendra, the appellant was standing under the <i>Machan</i> (scaffolding) and the above 3 persons committed murder on the instructions/directions of the present appellant.	

In the case diary statement under Section 161 Cr.P.C., PW-1, Korsa Arjun has not named the present appellant. PW-4, Korsa Nagaiya, a witness to the extra-judicial confession, has stated in his cross-examination that when the appellant was not admitting his involvement in the crime, he was assaulted by the 3 other accused persons who are juvenile and thereafter, the appellant confessed his involvement in the crime.

It is doubtful that whether such statement extracted after assaulting the appellant would be admissible as a valid piece of extra-judicial confession.

Considering the nature and quality of evidence available against the appellant, we deem present to be a fit case where the substantive jail sentence imposed upon the appellant deserves to be suspended and he shall be released on bail.

Accordingly, I.A.No.2/2015 is allowed.

It is directed that the execution of substantive jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on his furnishing a personal bond in sum of Rs.50,000/- with one solvent surety of the like amount to the satisfaction of the trial Court for his appearance before the Registry of this Court on **14th September, 2016**. Thereafter, the appellant shall continue to appear before the trial Court on a date given by the Registry of this Court and on all such subsequent dates as are given to him by the said Court, till the disposal of this appeal.

Sd/

JUDGE
(Prashant Kumar Mishra)

Sd/

JUDGE
(Chandra Bhushan Bajpai)

