

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CR.A. No. 1043 of 2016

Govind Patel, S/o. Usatram Patel, Aged About 55 Years, R/o. Village - Dhanigaon,
Police Station -Baramkela, Civil and Revenue District - Raigarh Chhattisgarh.

--- Appellant.

Versus

State Of Chhattisgarh, Through : The Station House Officer, Police Station
Baramkela, District Raigarh Chhattisgarh.

---Respondent

22/08/2019	<p>Ms. Sharmila Singhai, counsel for the appellant. Mr. Avinash K. Mishra, P.L for the State. Ms. Anjali Singh Chauhan, counsel for objector.</p> <p>Heard on I.A. No.1/2019, repeat application for suspension of sentence and grant of bail.</p> <p>The first application for suspension of sentence and grant of bail was dismissed as withdrawn on 30.06.2017 with liberty to file repeat application after two years.</p> <p>Appellant has been convicted by the judgment of conviction and order of sentence dated 26.07.2016, passed in S.T. No.20/2015, by the learned Additional Sessions Judge, Sarangarh, District – Raigarh (C.G.) in the following manner :-</p> <table border="1" data-bbox="411 1715 1390 1877"><tr><td data-bbox="411 1715 783 1877">U/s. 302 of the Indian Penal Code.</td><td data-bbox="783 1715 831 1877">:</td><td data-bbox="831 1715 1390 1877">R.I. for life and fine of Rs.2000/- and in default of payment of fine, further under go 1 year R.I.</td></tr></table> <p>Learned counsel appearing for the appellant would submit that the appellant has been erroneously convicted by the trial Court without there being any evidence of prosecution beyond reasonable</p>	U/s. 302 of the Indian Penal Code.	:	R.I. for life and fine of Rs.2000/- and in default of payment of fine, further under go 1 year R.I.
U/s. 302 of the Indian Penal Code.	:	R.I. for life and fine of Rs.2000/- and in default of payment of fine, further under go 1 year R.I.		

doubt. Two eye-witnesses namely Tekram Patel (P.W.-2) and Ram Lal Patel (P.W.-6) have stated that the deceased made single blow by club on the head of the deceased on the date of incident i.e. 12.05.2015. The deceased died on 19.05.2015, which may be result of lack of proper treatment. Apart from that there is evidence to show that the appellant was addressed as an insane person because of which, he got irritated and he has committed the offence. The insanity of the appellant was also taken as ground for defence, which was not accepted by the trial Court, however, it is again raised in this appeal. The appellant is in jail since 13.05.2015 and there is no likelihood of this appeal being heard in near future. Hence, it is prayed that the sentence of imprisonment against the appellant be suspended and he 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 there is clear evidence of Tekram Patel (P.W.-2) and Ram Lal Patel (P.W.-6), who have stated that it was the appellant, who made assault on the deceased, which has resulted in his death. Therefore, no case is made out for grant of bail.

Counsel for the objector submits that this applicant has a criminal history and he was earlier prosecuted for offence under Section 294, 323 and 506 B of the Indian Penal Code in which he was convicted and sentenced. Therefore, he is not entitled for grant of bail.

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

After perusal of the statement of the eye-witnesses namely Tekram Patel (P.W.-2) and Ram Lal Patel (P.W.-6), it is found that they made statement that some meeting was going on during which the appellant came on the spot with some agitation in his mind, then he assaulted the deceased on his head only once, therefore, it is a case

of single injury. Further the death of the deceased has not occurred instantaneously, it occurred after passing of about 7 days. During the hearing of the appeal, the intention of the appellant would be needed to be examined in detail, for the present, we are of the considered opinion that it is a fit case to suspend the sentence and release the appellant on bail.

Accordingly, I.A. No.1/2019, application for suspension of sentence and grant of bail, is allowed.

Execution of substantive jail sentence imposed on appellant shall remain suspended and he is directed to be released on bail on his executing a personal bond for a sum Rs.25,000/- with one surety for the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on **21st October, 2019**. He 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 him by the said Court, till the disposal of this appeal.

Certified copy as per rules.

Sd/-
(R.C.S. Samant)
Judge

Sd/-
(Ram Prasanna Sharma)
Judge