

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1370 of 2018**

- Shankar Yadav, S/o Faguram Yadav, Aged About 21 Years, Occupation-Cultivator, R/o Village - Bilaidhodhi, Police Station - Sitapur, District - Surguja, Chhattisgarh

---- Appellant**Versus**

- State of Chhattisgarh, Through The Station House Officer, Police Station - Kapoo, District : Raigarh, Chhattisgarh

---- Respondent

06/02/2019	Shri Ajeet Kumar Yadav, counsel for the Appellant. Shri Suryakant Mishra, PL for the State. Shri Hemant Kumar Patel, Counsel for the Objector. Heard on I.A.No.01/2018, application for suspension of sentence and grant of bail. The appellant has been convicted under the impugned judgment of conviction and order of sentence dated 24.08.2018 passed by Learned Additional Sessions Judge, Raigarh, (CG), in S.T. No.128/2018. Learned counsel for the appellant argued that the appellant has been convicted on the sole basis of circumstantial evidence of recovery of sim which is said to be that of the deceased, though the prosecution has failed to lead any evidence that the said sim was issued in the name of the deceased and that it was actually put to use by the deceased by using it in a cell phone. It is next submitted that except this, there is other evidence on record to connect the appellant with the said alleged commission of offence. On the other hand, learned State counsel opposing the bail application would submit that the evidence on record has come	

that a memorandum statement of the appellant was recorded by police in presence of witnesses in which the appellant himself has admitted that the sim belongs to the deceased and it was recovered from the possession of the appellant.

Having considered the submission of learned counsel for the parties and particularly taking into consideration that the only basis for conviction of the appellant is based on evidence of sim in respect of which there is no specific evidence that the said sim belong to the deceased, we are inclined to allow the application for suspension of sentence and grant of bail.

Accordingly, I.A.No.01/2018 is allowed. The substantive jail sentence awarded to the appellant is suspended and the appellant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned Trial Court for his appearance before it on **15.04.2019** and continue to appear on all other subsequent dates as may be given to him by the trial Court, interval being not less than 6 months, during the pendency of this appeal.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge