

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 1492 of 2015

1. Hemant Kumar Sahu S/o Ramesar Sahu Aged About 26 Years R/o Village Datrenga, Police Station Tikrapara District Raipur Chhattisgarh.
2. Chhagan Sahu S/o Dhanprasad Sahu Aged About 19 Years R/o Village Datrenga, Police Station Tikrapara District Raipur Chhattisgarh.
3. Tejeshwari Bai @ Tarni @ Teje S/o Hemant Sahu Aged About 23 Years R/o Village Datrenga, Police Station Tikrapara District Raipur Chhattisgarh.

---- Appellants (in Jail)

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Abhanpur, District Raipur Chhattisgarh.

---- Respondent

19/01/2017	Shri Y.C. Sharma, Advocate for the appellants. Shri Adhiraj Surana, Deputy Government Advocate for the State/ respondent. Heard on I.A. No. 1 of 2016, an application for suspension of sentence and grant of bail to the appellants. By the impugned judgment dated 27.8.2015 passed by the learned Fourth Additional Sessions Judge, Raipur, district Raipur, Chhattisgarh in Sessions Trial No. 186 of 2013, appellants No.1 & 2 stand convicted under Sections 302/120B and 201/34 of the Indian Penal Code and sentenced to undergo life imprisonment and RI for 7 years and to pay fine of Rs.500/- to each of the appellant and appellant No.3 stands convicted under Sections 120B and 201/ 34 of the Indian Penal Code and sentenced to undergo life imprisonment and RI for 7 years and to pay fine of Rs.500/- on each count, in default of	

payment of fine, to further undergo SI for 6 months, respectively with a direction to run the sentences concurrently.

Learned counsel for the appellants submits that the appellants have been convicted solely on the basis of circumstantial evidence but the circumstantial evidence is not of such nature which can be based for convicting the appellants. He further submits that on the memorandum of the accused/ appellants No.1 & 2 certain seizures have been effected but the FSL report does not indicate that the blood found on the seized articles was human blood. It has been further argued that in absence of the serological report, the FSL report loses its significance. Learned counsel for the appellants further submits that even in Section 313 of the Cr.P.C. statement no question to this effect was put to the accused persons. He also submits that even an electronic evidence has not been proved by the prosecution, as per requirement of Section 65B of the Evidence Act. Lastly, it has been argued that the appellants are in jail since 11.6.2013. The appeal is likely to take much time for final disposal and therefore, they be released on bail.

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 appellants on bail.

Accordingly, the application is allowed.

It is directed that the jail sentence imposed upon the appellants shall remain suspended during the pendency of this appeal and they shall be released on bail on each of them 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 Appellants need not give appearance anywhere until and unless otherwise directed.

Sd/-
(Pritinker Diwaker)
Judge

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