

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1156 of 2016

- Mukesh Agriya @ Guddu S/o Sadu Agriya, Aged About 28 Years, R/o Near Bus Stand Dipadihkala, Thana Shankargarh, District Balrampur Ramanujganj, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh, Through Police Station Shankargarh, District Balrampur-Ramanujganj, Chhattisgarh.

---- Respondent

16/12/2016	Shri Deepak Jain, counsel for the appellant. Shri Adhiraj Surana, Dy. Govt. Advocate for the State. Heard on I.A. No.1/2016, which is an application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 11/07/2016 passed by the Additional Sessions Judge, Ramanujganj (C.G.) in S.T. No. 01/2012, the appellant stands convicted under Section 302 of Indian Penal Code and sentenced to undergo imprisonment for life and to pay fine of Rs.500/-, in default of payment of fine, to further undergo RI for 15 days. Counsel for the appellant submits that there is no legally acceptable evidence to establish that the appellant was the author of crime of murder. Conviction is based on conjecture and surmises. None of the witnesses examined by the prosecution have witnessed that it was the appellant who assaulted the deceased. The only statement of witnesses in	

this that they saw that appellant had caught hold of hairs of Kamla and pulling her towards his house, seeing which the witnesses present got scared and went away from the spot. It was after one hour that deceased Kamla was found lying dead in front of the house of Vinita (PW-3). The extra judicial confession relied upon by the trial Court is not on clear terms. On these ground the appellant is likely to succeed in this appeal on its prayer that the sentence awarded may be suspended and he may be enlarged on bail.

Counsel for the State has opposed the submission made on behalf of the appellant and has prayed for rejection of I.A. No.1.

On going through the evidence of prosecution witnesses and the findings recorded by the trial Court it is clear, that none of the witnesses have witnessed the incident in which deceased Kamla was assaulted by the appellant-accused. Statement of extra judicial confession by one witness Ramgovind (PW-8) is under challenge and it shows that the appeal is arguable. Appellant is in custody since 08/10/2011. Without further commenting on merits, we are inclined to release the appellant on bail.

Accordingly, the application is allowed.

It is directed that the jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety in like sum to the satisfaction of the trial Court.

Sd/-
(Pritinker Diwaker)
Judge

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

