

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 1397 of 2016

- Mittu Ghasiya S/o Chotu Ghasiya Aged About 40 Years R/o Village - Lakhdabri, Police Station Saliha, District - Balodabazar - Bhatapara, Chhattisgarh

Versus

- State Of Chhattisgarh Through - Police Station - Saliha, District - Balodabazar - Bhatapara Chhattisgarh

23.01.2017	Ms. Laxmin Tondey, Counsel for the Appellant. Ms. M. Asha, Panel Lawyer for the State. Heard on I.A. No.2/2016, application under Section 389(2) of the Cr.P.C. for suspension of sentence and grant of bail. On behalf of the Appellant it was submitted that Appellant has been convicted for the offence under Section 307 of the Indian Penal Code to undergo R.I. for 5 years and further directed to pay fine of Rs. 100/- and in default of payment of fine to further undergo additional imprisonment for 6 months. The Appellant is first offender without any criminal antecedent. On account of some dispute he has assaulted his wife. Injuries were noticed grievous and fatal for life. The accused Appellant is in jail since 10 months and 9 days till date. He has a good case to argue. He will not misuse the liberty granted. Looking to the entire facts the sentence may be suspended and he may be released on bail during the pendency of the instant criminal appeal.	

Per contra, Learned State Counsel has opposed arguments advanced on behalf of the Appellant and would submit that the Doctor who conducted M.L.C. i.e. PW-7, Dr. R.D. Gupta noticed 6 injuries and also fracture on nasal bone more than one. Looking to the number and nature of the injuries, the application for suspension of sentence and grant of bail may be dismissed.

Perused the judgment dated 09.09.2016. In paragraph 20 the Trial Court has stated the period of patient hospitalized was 9 days only. The accused Appellant is first offender with no criminal antecedent, sentenced to RI for 5 years under Section 307 of the IPC and he is in jail since 14.03.2016 till to date, without commenting anything on its merits, I am inclined to grant him bail.

Consequently, I.A. No.2/2016 is hereby 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 if furnishes personal bond for an amount of Rs. 20,000/- with one solvent surety of the like amount to the satisfaction of the Sessions Judge, Balodabazar, District – Baloadabazar- Bhatapara for his appearance before the said trial Court on **28.02.2017** and thereafter he shall continue to appear before the said trial Court on all such other subsequent dates as are given to him by the said Court, till the disposal of this Appeal.

It is further directed that in case the Appellant fails to furnish bail bond before that date then the trial Court is not required to release the accused Appellant on bail unless the

date is extended which is given to him for his appearance before the trial Court by this Court.

The trial Court is further directed to intimate immediately the Registry of this Court as to whether in compliance of this Court's order, the Appellant has been released on bail or not or the Appellant has failed to submit bail bond, within 15 days of its compliance.

Certified copy as per rules.

List the matter for final hearing in its due course.

Sd/-

Chandra Bhushan Bajpai
Judge