

HIGH COURT OF CHHATTISGARH, BILASPURCRA No. 1502 of 2019

1. Ajay Dubey S/o Deendayal Dubey Aged About 18 Years R/o Balani Chouk, Gandhi Ward, Mungeli, District Mungeli Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Police Station City Kotwali, Mungeli, District Mungeli Chhattisgarh.

---- Respondent

CRA No. 1504 of 2019

1. Yogesh Kumar Dewangan S/o Ishwar Lal Dewangan Aged About 22 Years R/o Rajendra Ward, Patwapara, Mungeli, Police Station - City Kotwali, Mungeli District - Mungeli Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station - City Kotwali, Mungeli, District - Mungeli Chhattisgarh.

---- Respondent

22/01/2020	Heard Shri R.K. Jain & Shri Akhtar Hussain, Advocates for the respective appellants and Shri Rajendra Tripathi, Panel Lawyer for the State. <u>I.A.Nos.1</u> These are the applications for suspension of sentence and grant of bail to the appellants in both the appeals.	

CRA No.1502 of 2019

By the impugned judgment dated 1-10-2019 passed by the Special Judge, SC/ST Act, Mungeli, in Spl. ST No.6/2019 the appellant has been convicted under Sections 363, 366 & 376 (1) of the Indian Penal Code; Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act; and Sections 4 & 6 of the POCSO Act and sentenced him to undergo imprisonment for life amongst other sentences respectively with default stipulations.

CRA No.1504 of 2019

By the impugned judgment dated 1-10-2019 passed by the Special Judge, SC/ST Act, Mungeli, in Spl. ST No.7/2019 the appellant has been convicted under Sections 363, 366 & 376 (1) of the Indian Penal Code; Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act; and Sections 4 & 6 of the POCSO Act and sentenced him to undergo imprisonment for life amongst other sentences respectively with default stipulations.

These two criminal appeals are arising out of common judgment albeit the accused and the prosecutrix in both the appeals are different and they were sent for trial in two different special session trials.

The prosecutrix were examined as PW-1 in both the matters whereas the respective friends were examined as PW-2. Both the prosecutrix happened to meet the respective accused during the Republic Day Programme on 26-1-2019 and thereafter they remained connected over mobile phone. In the First Information Report (FIR) they made allegation of commission of forcible sexual intercourse, but in Court no such allegation has been made by the prosecutrix. Both the prosecutrix would

Gowri	admit that the accused persons threw mud over them due to which the entire controversy started and the report was prepared by their respective fathers. If the incident about throwing of mud would not have occurred no report would have been lodged. In the entire deposition of the respective prosecutrix, allegation of commission of rape is missing. Considering the entire facts situation of the case and the evidence, we are inclined to suspend the jail sentence imposed against the appellants and release them on bail. Accordingly, both the applications (I.A.Nos.1) are allowed. Execution of the sentence imposed on both the appellants shall remain suspended and they are directed to be released on bail on each of them furnishing a personal bond for a sum of Rs.25,000/- each with one local surety in the like sum to the satisfaction of the trial Court for their appearance before the Registry of this Court on <u>22nd of April, 2020</u>. They 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 them by the said Court, till the disposal of these appeals. Certified copy as per rules. Sd/- (Prashant Kumar Mishra) Judge Sd/- (Gautam Chourdiya) Judge	
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