



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1746 of 2025

1 - Nanka @ Kamlesh Chouhan S/o Late Hariram Chouhan Aged About 44 Years R/o Bandimal, Thana Pussour, District Raigarh Chhattisgarh Present Address E/13, Subhash Block Korba, Chowki Manikpur, Thana Kotwali, Korba, District Korba Chhattisgarh

2 - Bittu @ Gunda Swami Chouhan S/o Nanka Chouhan Aged About 25 Years R/o Bandimal, Thana Pussour, District Raigarh Chhattisgarh Present Address E/13, Subhash Block Korba, Chowki Manikpur, Thana Kotwali, Korba, District Korba Chhattisgarh

... Appellants

versus

State of Chhattisgarh Through Police Chowki Manikpur, Thana Kotwali Korba, District Korba Chhattisgarh

... Respondent

Order Sheet

16/12/2025	Mr. Vikas Pandey, Advocate for the Appellants. Mr. Karan Kumar Bahrani, PL for the State. Heard. In compliance of order dated 14/11/2025, the appellant No.2 Bittu @ Gunda Swami Chouhan has been produced before this Court in police custody by Police Head Constable Dev Kumar Paikra No.400 & Constable Devendra Pankaj

No.490 from District Korba, C.G.

Now Additional Registrar Judicial is directed to mark the presence of Appellant No.2 and prepare a jail warrant to send him back to the concerned Jail.

Heard on I.A. No. 4/2025, which is an application for Recall of Order dated 28.08.2025 and Cancellation of Non-Bailable Warrant issued against Appellant No.1.

Learned counsel for the appellant No.1 would contend that by order dated 28.08.2025, this Court had granted suspension of sentence and directed the appellants to appear before the Registry of this Court but due to non-compliance of the said order, a non-bailable warrant came to be issued on 14.11.2025. He would next contend that the appellants are illiterate persons and were not duly informed by the counsel of the lower Court regarding the requirement of appearance before this Court, as a result of which they could not comply with the order and consequently, in pursuance of the warrant, Appellant No. 2 has been arrested and produced before this Court. It is therefore prayed that the non-bailable warrant issued against appellant No.1 may be canceled.

On due consideration, insofar as Appellant No. 1 is concerned, though the application has been filed on his behalf through counsel, since he has not yet appeared before this Court nor surrendered before the concerned Court, the relief granted by this order shall remain subject to his appearance/surrender.

Appellant No. 1 is directed to appear before the Registry of this Court on 19th of December, 2025 thereafter he shall appear before the trial Court on the date given by the Registry of this Court. In the event of failure, the non-bailable warrant issued against him shall continue to remain in force and this order will lose its efficacy qua the appellant No.1.

With the aforesaid observation, the I.A. No.4/2025 stands disposed of.

Also heard on I.A. No. 3/2025, which is an application for Suspension of Sentence and Grant of Bail for Appellant No. 2 under Section 430 of BNSS, 2023.

The appellants stand convicted under Section 307 of the IPC and sentenced to undergo R.I. for 3 years and to pay

fine of Rs.3000/-, with usual default stipulation vide judgment dated 01/08/2025 passed by the 2nd Additional Sessions Judge Korba, District korba, C.G. in S.T. No.91/2021.

Learned counsel for the appellants would submit that the appellants are illiterate persons and the trial Court counsel did not inform them about the appearance before this Court due to which they could not appear on the date of appearance. He would next contend that because of the mistake of the trial Court counsel the non-appearance occurred and the non-bailable warrant was issued pursuant to which the appellant No.2 was arrested. He would lastly submit that it is a bona fide mistake, therefore, the substantive jail sentence imposed upon the appellant No.2 may be suspended and he may be released on bail.

Per contra, learned State counsel opposes the prayer for suspension of sentence and grant of bail.

Considering the entire facts & circumstances of the case and the fact that due to the mistake of trial Court counsel, the appellant No.2 could not appear and they have

ashu	been granted bail by this Court, therefore, I am inclined to suspend the sentence and release the appellant No.2 on bail. Accordingly, I.A.No.3/2025, application under Section 430 of BNSS for suspension of sentence and grant of bail is allowed. Execution of further substantive jail sentence imposed on appellant No.2 Bittu @ Gunda Swami Chouhan shall remain suspended and he is directed to be released on bail on his executing a personal bond for a sum Rs.10,000/- with one surety for the like sum to the satisfaction of the Trial Court for his appearance before the Registry of this Court on 20/01/2026. He 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 this appeal. SD/- (Arvind Kumar Verma) Judge
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