

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet CRA No. 1730 of 2019

- Narwan Korram @ Baadrai S/o Bansiram Korram Aged About 29 Years R/o Madam, Gram Panchayat Bade Pijondi, Police Station - Amabeda, Present Address - Murnar, Gram Panchayat Chingnar, Police Station - Tadoki District - U.B. Kanker Chhattisgarh. **---- Appellant**

Versus

- State Of Chhattisgarh Through Police Station - Tadoki, District - Uttar Bastar, Kanker Chhattisgarh. **---- Respondent**

29-06-2021	Mr. Azad Siddique, counsel for the appellant/s. Mr. Anshuman Shrivastava, PL for the State/respondent. Heard on I.A. No. 02/2019 application for suspension of sentence and grant of bail. The appellant has been convicted under the impugned judgment of conviction and order of sentence dated 06.09.2019 passed by the learned Additional Sessions Judge, Bhanupratappur, District U.B. Kanker, CG in S.T. No. 15/2015. Learned counsel for the appellant would argue that the appellant's conviction is more influenced by the evidence which was recorded in the first round of trial against the co-accused before the arrest of the present appellant than the evidence which has been recorded after the arrest of the present appellant in his trial. He would argue that what has been stated by PW-6 in his evidence particularly in the cross-examination clearly shows that this witness could not see anything because of the distance and darkness and this fact he has clearly admitted in his cross-examination. Except this, there is no other evidence led by the prosecution against the present appellant either any incriminating evidence of recovery, last seen
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or extra judicial confession.

On the other hand, learned State counsel would submit that when PW-6 – eye witness was again examined in the trial of the present appellant, it was recorded by the Court that the witness was not prepared to state further in addition to what has already been deposed by him earlier which means that the witness reiterated his earlier statement. He would further submit that in the examination-in-chief this witness has clearly stated that when Johar and Mannu (Co-accused) were assaulting the deceased, the present appellant was also present and what he has stated in the cross-examination though raises some doubt, but his statements recorded before the Magistrate under Section 164 Cr.PC provides corroboration.

Considering the submission of learned counsel for the parties, particularly taking into consideration the submission with regard to what has been stated by PW-6 in the cross-examination regarding the distance at which the incident happened and further considering that the prosecution has not come out with any evidence of recovery, extra judicial confession or last seen against the present appellant, we are inclined to suspend the jail sentence and grant bail.

Accordingly, the application is allowed. It is directed that the substantive jail sentence imposed upon the appellant shall remain suspended during the pendency of the appeal and he shall be released on bail furnishing a personal bond of Rs.50,000/- with one local surety of the like amount to the satisfaction of the concerned trial Court, for his appearance before the concerned trial Court on **31st August, 2021** and all such further dates as may be directed by the said Court, interval being not less than 6 months, till final disposal of this appeal.

	Post the appeal for final hearing. Certified copy as per rules. Sd/- (Manindra Mohan Shrivastava) Judge Sd/- (Vimla Singh Kapoor) Judge
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Pawan Prajapati