

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 1911 of 2018

Shambhu Nisahad, S/o Nanharu Nishad, Aged About 58 Years, R/o Village- Pounsari, P.S. Simga, District- Balodabazar- Bhatapara (C.G.)

---- Appellant

Versus

State of Chhattisgarh, Through: Police Station Simga, District- Balodabazar-Bhatapara (C.G.)

---- Respondent

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22.02.2019	Mr. Satya Prakash Verma, Counsel for the appellant. Mr. Suyrakant Mishra, Panel Lawyer for the State. Heard on I.A. N. 01/2018, 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 17.12.2018 passed by Additional Sessions Judge, Bhatapara, District- Balodabazar- Bhatapara (C.G.) in Session Trial No. H-09/2017. Learned counsel for the appellant would argue that case of the prosecution rests on the weak evidence of last seen only and even this evidence is of appellant found sitting and consuming liquor in front of the shop of Densingh (PW-4) whereas, Densingh has not stated regarding appellant consuming liquor along with the deceased and another friend in Village- Pounsari. He would further argue that dead body was found about 6

km. away in a pond. Except this, there is no evidence and in view of settled legal position last seen together without anything more could not be basis to convict the appellant, appellant may be granted bail.

On the other hand, learned State counsel opposing the application for grant of bail submits that Gopi Nishad (PW-6) has categorically stated that in the night, the appellant, deceased and another friend were found consuming liquor in front of the shop of Densingh and next day, dead body of the deceased was found in a pond 6 km. away.

He would further argue that one of the prosecution witness- Teklal Nishad (PW-5) in his 164 Cr.P.C. statement given before the Magistrate stated that it was the appellant who had assaulted the deceased in his presence.

Having heard learned counsel for the parties and taking into consideration that prosecution witness- Teklal Nishad (PW-5) has not supported case of the prosecution and that the only evidence against the appellant is that in the previous night, the appellant, deceased and his another friend were seen consuming liquor in front of shop of Densingh, we are inclined to allow the application for grant of bail filed by the appellant.

Accordingly, the application is allowed. It is directed that the substantive jail sentence awarded to the appellant is suspended and he is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with two local sureties for the like amount to the satisfaction

of the concerned Trial Court for his appearance before the concerned Trial Court on 30th April, 2019 and on all such further dates as may be directed, interval being not less than six months, during the pendency of this appeal.

List the case for final hearing.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Ram Prasanna Sharma)
Judge