

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 2021 of 2019

1. Rajendra Singh S/o. Jajman Singh Gond, aged about 22 years, R/o. Village Dumartarai, P.S. Katghora, District Korba (C.G.)
2. Sadhe Ayam @ Sadhe Kumar S/o. Mantram Ayam, aged about 29 years, R/o. Village Gopalpur (Bamhani), P.S. Pali, District Korba (C.G.)

---- Appellants (in jail)

Versus

State of Chhattisgarh Through the Station House Officer, Police Station Katghora,
District Korba Chhattisgarh.

---- Respondent

20/01/2021	Mr. Tarun Dansena, Advocate for the appellants. Mr. Amit Verma, Panel Lawyer for the State/appellant. Heard on application (IA No.01/2019) for suspension of sentence and grant of bail to the appellants. The appellants have been convicted under Sections 302 IPC and sentenced them to undergo imprisonment for life with fine of Rs. 500/-with default clauses, vide judgment of conviction and order of sentence dated 19.12.2019 passed in ST No. 27 of 2018 by learned Additional Sessions Judge, Katghora, District Korba (CG). Learned counsel for the appellants would submit that the conviction of the appellants is founded only on suspicion and there is no legally admissible evidence on record to sustain the conviction. He submits that only on the basis of evidence that appellant No.1 Rajendra Singh was having an affair with the deceased, without there

being anything more, could not be made a basis for their involvement. He would further submit that on the day of the incident in the morning the appellant had met with the deceased in the school because it is not in the evidence that thereafter the appellant and the deceased went together towards jungle and then the deceased was not seen and thereafter the dead body was found. The recovery of stem extract found on the spot has been stated by more than one prosecution witnesses.

On the other hand, learned counsel for the State would submit that in the present case the prosecution evidence is to the effect that appellant No.1 Rajendra Singh and the deceased were having love affair and the day before the date of incident appellant Rajendra Singh had talked to the deceased. The child witness has also stated that on the date of the incident appellant Rajendra Singh had come to meet the deceased in the school. Thereafter, the deceased had gone towards jungle for grazing cattle but did not return and her dead body was found. He would further submit that though the appellant Rajendra Singh has sated regarding commission of offence in presence of police, as there are large number of villagers, such evidence can be taken as evidence of extra judicial confession also.

Having heard learned counsel for the parties, taking into consideration the submissions, the involvement of the appellants is based on the fact that appellant Rajendra Singh having met the deceased in the school on the date of incident but there is no evidence of deceased and the appellant going towards jungle nor there being any evidence of quarrel between the appellant and the deceased nor any other evidence to connect the appellants with the alleged commission of offence, we are inclined to allow the application of the appellants.

Accordingly, the application is allowed. It is directed that the

substantive jail sentence imposed upon the appellants shall remain suspended during pendency of the appeal and they shall be released on bail on each furnishing a personal bond of Rs.25,000/- along with two local sureties of the like amount to the satisfaction of the concerned trial Court, for their appearance before the concerned trial Court on **26st February, 2021** and on 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.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge