



2026:CGHC:19571-DB

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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 2197 of 2025****1 - Chintaram Sahu S/o Lateru Ram Sahu Aged About 54 Years R/o Village- Banrasi, Police Station- Aarang, District- Raipur (C.G.)****... Appellant(s)****versus****1 - State of Chhattisgarh Through - Station House Officer, Police Station, Aarang, District- Raipur (C.G.)****... Respondent(s)**

For Appellant(s) : Mr. Rudra Pratap Dubey, Advocate.**For Respondent/State : Mr. N. K. Jaiswal, Dy. Govt. Advocate.**

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge**Judgment on Board****Per Ramesh Sinha, Chief Justice.****28/04/2026**

1. Though the matter is listed for hearing on I.A.No.01, which is an application for suspension of sentence and grant of bail to the appellant, however, considering the fact that the appellant is in jail since 04.09.2021 and with the consent of learned counsel for the parties, the appeal is heard finally. Accordingly, I.A. No. 01, stands disposed of.



2. This appeal has been filed under Section 415(2) of the Bhartiya Nagrik Suraksha Sanhita, 2023, against the judgment of conviction and order of sentence dated 15.09.2025 passed by the learned 9th Additional Sessions Judge, Raipur, District Raipur (C.G.), in Sessions Trial No. 413/2021, whereby the appellant has been convicted for the offence under Section 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life along with a fine of Rs. 5,000/-, in default of payment of fine, to further undergo rigorous imprisonment for six months.
3. Brief facts of the case are that the complainant Nandkumar Patel (PW-1) lodged the First Information Report on 02.09.2021 stating that on the date of incident at about 09:30 PM, upon hearing cries of “bachao-bachao” from the road side, he went towards the spot and saw the appellant/accused Chintaram Sahu abusing Kanhaiya Sahu in filthy language, threatening him with dire consequences and assaulting him by hands and fists in front of his house at village Banarsi. Thereafter, the injured was taken to Krishna Hospital, Kharora for treatment. The police registered FIR Ex.-P/1 and prepared the spot map Ex.-P/2 and seized blood-stained clothes and soil vide Ex.-P/3. During treatment, the condition of the injured became serious and he succumbed to injuries on 14.09.2021. Thereafter, merg intimation was recorded and inquest Ex.-P/7 was prepared in presence of witnesses and the dead body was sent for post-mortem. The post-mortem was conducted by (PW-12) Dr. M. Nirala and report Ex.-P/13 was



obtained, wherein the doctor opined that the death was homicidal in nature caused due to head injuries and its complications. During investigation, memorandum statement of the accused Ex.-P/4 was recorded and at his instance a wooden stick was seized vide Ex.-P/5. After completion of investigation, charge-sheet was filed against the accused for the offences under Sections 294, 323, 506 Part-II and 302 of the IPC.

4. The case was committed to the Court of Sessions Judge, Raipur, from where the same was made over to the Court of learned trial Court for its trial.
5. The learned trial Court has framed charges against the appellant for the offences under Sections 294, 323, 506 Part-II and 302 of the I.P.C. The appellant abjured his guilt and claimed trial.
6. In order to prove the charge against the appellant, the prosecution has examined as many as 17 witnesses. The statement of the appellant under Section 313 of Cr.P.C. was also recorded, in which he denied all the incriminating circumstances appearing against him, pleaded innocence and stated that he has been falsely implicated in the offence.
7. After appreciation of the oral as well as documentary evidence led by the prosecution, the learned trial Court has convicted and sentenced the appellant as mentioned in the opening paragraph of this judgment. Hence, this appeal.



8. Learned counsel for the appellant would submit that the appellant is innocent and has been falsely implicated in the present case. The prosecution has failed to prove its case beyond reasonable doubt. The so-called eye-witnesses are interested witnesses being relatives and there are material contradictions and omissions in their statements, therefore, their evidence is not reliable for sustaining the conviction of the appellant. He would further submit that there is no direct evidence to establish that the appellant had any intention to cause death of the deceased and the incident occurred on the spur of the moment without any premeditation. In the alternative, he submits that looking to the nature of injuries and circumstances of the case, the offence would not travel beyond the ambit of Section 304 of the I.P.C., and if this Hon'ble Court comes to the conclusion that the appellant has caused the death of the deceased, then the conviction of the appellant may be altered from Section 302 of the I.P.C. to Section 304 Part-II of the I.P.C., and the period already undergone by him may be treated as sufficient sentence.
9. On the other hand, learned counsel for the State opposes the submissions made by learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt. From the evidence of the prosecution witnesses, it is duly established that the appellant committed the murder of deceased Kanhaiya Sahu. He would further submit that there is cogent evidence on record that the appellant assaulted



the deceased by wooden stick, causing multiple grievous injuries, as a result of which the deceased became unconscious and, despite medical treatment, succumbed to the injuries. The incident has been witnessed by PW-1 Nandkumar Patel, PW-2 Pukhraj Sahu and other witnesses, whose presence at the spot is natural and their testimonies are consistent and reliable. The medical evidence as well as FSL report also corroborate the prosecution case. Therefore, the conviction of the appellant under Section 302 of the IPC and the sentence imposed are strictly in accordance with law and do not call for any interference by this Court.

10. We have heard learned counsel for the parties and perused the record.
11. The first question for consideration would be whether the death of the deceased Kanhaiya Sahu was homicidal in nature or not. The learned trial Court, after appreciating the oral as well as documentary evidence led by the prosecution, particularly relying upon the evidence of Dr. Suryaprakash Sahu (PW-14), who initially examined the injured, has come to the conclusion that the cause of death was due to multiple injuries sustained over the body leading to cardio-respiratory failure, which ultimately resulted in death. Dr. M. Nirala (PW-12), who conducted the post-mortem of the dead body, and opined that the death was due to cardio-respiratory failure as a result of multiple injuries and their complications and the nature of death is homicidal in nature, The



doctors have found several ante-mortem injuries including abrasions, contusions, fractures and punctured wounds on various parts of the body, and opined that all the injuries were sufficient to cause death in ordinary cause of nature. It has also been opined that the injuries were caused by hard and blunt as well as pointed objects. Further, from the evidence of eye-witnesses PW-1 Nandkumar Patel, PW-2 Pukhraj Sahu and other supporting witnesses, it is clear that the appellant assaulted the deceased, causing grievous injuries, as a result of which he became unconscious and subsequently died during treatment. As such, we are of the considered opinion that the finding recorded by the learned trial Court that the death of the deceased was homicidal in nature is a finding of fact based on evidence available on record, which is neither perverse nor contrary to the material on record, and the same deserves to be affirmed.

12. Now the next question for consideration would be whether the accused/appellant is the perpetrator of the crime in question, which the learned trial Court has recorded in the affirmative by relying upon the testimony of the eye-witnesses PW-1 Nandkumar Patel, PW-2 Pukhraj Sahu, PW-3 Faguram Kannauje and other supporting witnesses, who have made consistent statements in their evidence that on the date of the incident at about 09:00–09:30 p.m., the appellant assaulted the deceased Kanhaiya Sahu, as a result of which the deceased sustained multiple injuries and became unconscious, and thereafter he was taken to hospital



where he ultimately died during treatment. The defence could not extract any material contradiction from the evidence of these witnesses so as to disbelieve their testimony or to hold that the appellant is not the perpetrator of the crime. The medical evidence and FSL report also lend corroboration to the ocular version. From these evidences, it is clear that it is the appellant herein who, on the fateful date and time, caused injuries to the deceased. As such, the learned trial Court has rightly held that it is the appellant/accused who had caused injuries over the body of the deceased. Accordingly, we hereby affirm the said finding of the learned trial Court.

13. The aforesaid finding brings up to next question for consideration, whether the case of the appellant is covered within Exception 4 of Section 300 of the I.P.C. vis-a-vis culpable homicide not amounting to murder and his conviction can be converted to Section 304 Part-I or Part-II of the I.P.C., as contended by learned counsel for the appellant.
14. The Hon'ble Supreme Court in the matter of **Sukhbir Singh v. State of Haryana** has observed as under:-

“21. Keeping in view the facts and circumstances of the case, we are of the opinion that in the absence of the existence of common object Sukhbir Singh is proved to have committed the offence of culpable homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and did not act in a cruel or unusual manner and his case is covered by Exception 4 of Section 300 IPC which is punishable under Section 304 (Part I) IPC. The finding of the courts below holding the aforesaid appellant guilty of



offence of murder punishable under Section 302 IPC is set aside and he is held guilty for the commission of offence of culpable homicide not amounting to murder punishable under Section 304 (Part I) IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.5000. In default of payment of fine, he shall undergo further rigorous imprisonment for one year.”

15. The Hon'ble Supreme Court in the matter of **Gurmukh Singh v. State of Haryana** has laid down certain factors which are to be taken into consideration before awarding appropriate sentence to the accused with reference to Section 302 or Section 304 Part II of the IPC, which state as under :-

“23. These are some factors which are required to be taken into consideration before awarding appropriate sentence to the accused. These factors are only illustrative in character and not exhaustive. Each case has to be seen from its special perspective. The relevant factors are as under :

- (a) Motive or previous enmity;
- (b) Whether the incident had taken place on the spur of the moment;
- (c) The intention/knowledge of the accused while inflicting the blow or injury;
- (d) Whether the death ensued instantaneously or the victim died after several days;
- (e) The gravity, dimension and nature of injury;
- (f) The age and general health condition of the accused;
- (g) Whether the injury was caused without premeditation in a sudden fight;
- (h) The nature and size of weapon used for inflicting the injury and the force with which the blow was inflicted;
- (i) The criminal background and adverse history of the accused;



(j) Whether the injury inflicted was not sufficient in the ordinary course of nature to cause death but the death was because of shock;

(k) Number of other criminal cases pending against the accused;

(l) Incident occurred within the family members or close relations;

(m) The conduct and behaviour of the accused after the incident.

Whether the accused had taken the injured/the deceased to the hospital immediately to ensure that he/she gets proper medical treatment ?

These are some of the factors which can be taken into consideration while granting an appropriate sentence to the accused.

24. The list of circumstances enumerated above is only illustrative and not exhaustive. In our considered view, proper and appropriate sentence to the accused is the bounded obligation and duty of the court. The endeavour of the court must be to ensure that the accused receives appropriate sentence, in other words, sentence should be according to the gravity of the offence. These are some of the relevant factors which are required to be kept in view while convicting and sentencing the accused."

16. Likewise, in the matter of **State v. Sanjeev Nanda**, their Lordships of the Hon'ble Supreme Court have held that once knowledge that it is likely to cause death is established but without any intention to cause death, then jail sentence may be for a term which may extend to 10 years or with fine or with both. It has further been held that to make out an offence punishable under Section 304 Part II of the IPC, the prosecution has to prove the death of the person in question and such death was caused by the act of the accused and that he knew that such act of his is likely to cause death.



17. Further, the Hon'ble Supreme Court in the matter of **Arjun v.**

State of Chhattisgarh has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

“20. To invoke this Exception 4, the requirements that are to be fulfilled have been laid down by this Court in *Surinder Kumar v. UT, Chandigarh* [(1989) 2 SCC 217 : 1989 SCC (Cri) 348], it has been explained as under : (SCC p. 220, para 7)

“7. To invoke this exception four requirements must be satisfied, namely, (i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor its relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly.

” 21. Further in *Arumugam v. State* [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130], in support of the proposition of law that under what circumstances Exception 4 to Section 300 IPC can be invoked if death is caused, it has been explained as under : (SCC p. 596, para 9)

“9. '18. The help of exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To



bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression “undue advantage” as used in the provisions means “unfair advantage”.

18. In the matter of **Arjun** (supra), the Hon'ble Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of the IPC and if it is only a case of knowledge and not the intention to cause murder and bodily injury, then same would be a case of Section 304 Part-II of the IPC.
19. Further, the Hon'ble Supreme Court in the matter of **Rambir v. State (NCT of Delhi)** has laid down four ingredients which should be tested to bring a case within the purview of Exception 4 to Section 300 of IPC, which reads as under:



“16. A plain reading of Exception 4 to Section 300 IPC shows that the following four ingredients are required:

- (i) There must be a sudden fight;
- (ii) There was no premeditation;
- (iii) The act was committed in a heat of passion; and
- (iv) The offender had not taken any undue advantage or acted in a cruel or unusual manner.”

20. According to the post-mortem report (Ex.-P/13), multiple injuries were found on various parts of the body of the deceased, however, there was no fracture of the skull or any internal head injury detected, and the cause of death has been opined to be cardio-respiratory failure as a result of multiple injuries. The eye-witnesses, namely PW-1 Nandkumar Patel, PW-2 Pukhraj Sahu, PW-3 Faguram Kannauje and other witnesses, have deposed that on the date of the incident, upon hearing the noise of a quarrel, they came out of their house and saw that the appellant was assaulting the deceased on his terrace and hurling threats that whoever came to rescue would also be killed. The incident occurred at night, and the presence of the deceased in the house of the appellant is suspicious, as it is unclear how a stranger went up to the appellant's terrace. The appellant has also stated in his statement under Section 313 Cr.P.C. that someone was entering his house and climbing onto the terrace, he then raised an alarm shouting “chor, chor” and tried to catch him, but the person somehow fled from his clutches. No traditional weapon was used by the appellant. It has also come in the evidence that there was



no prior enmity or premeditation between the parties and the incident occurred all of a sudden. Though the prosecution witnesses have stated about the assault, the nature of injuries, particularly absence of fatal head injury or fracture, indicates that there was no clear intention on the part of the appellant to cause death, and the act appears to have been committed in the heat of moment without pre-planning. Thus, the evidence on record suggests that although the appellant caused injuries to the deceased, the requisite intention to commit murder is not clearly established.

21. From the facts and circumstances of the case, it is quite evident that the incident occurred all of a sudden without there being any pre-meditation on the part of the appellant to cause the death of the deceased. The evidence on record would show that the quarrel ensued at the spur of the moment and the appellant, in the course of such sudden altercation, assaulted the deceased, as a result of which he sustained injuries and ultimately died during treatment. As such, the case of the appellant would fall within the purview of Exception 4 of Section 300 of I.P.C., as the act of the appellant herein completely satisfies the four necessary ingredients of Exception 4 to Section 300 IPC i.e (i) there was a sudden fight; (ii) there was no pre-meditation; (iii) the act was committed in the heat of passion; and (iv) the appellant had not taken any undue advantage or acted in a cruel or unusual manner. Had the appellant intended to commit the murder of the



deceased, he would have inflicted repeated and fatal blows or used a deadly weapon in a more brutal manner, however, the material on record indicates that the assault was made in the course of a sudden quarrel without any prior intention to cause death. As such, it can safely be held that the appellant did not have the intention to kill the deceased.

22. In view of the above discussion, we hold that it would meet the ends of justice if the conviction of the appellant under Section 302 of the I.P.C. is altered/converted to Section 304 Part-II of I.P.C.
23. Accordingly, the conviction of the appellant under Section 302 of I.P.C. is **set aside**, however, he is convicted under Section 304 Part-II of the I.P.C. and sentenced to undergo rigorous imprisonment for 5 years.
24. The appellant is stated to be in jail, he shall serve out the remaining sentence as modified by this Court.
25. The criminal appeal filed by the appellant is **partly allowed** to the extent indicated herein above.
26. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.



27. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Alok