

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Criminal Appellate Jurisdiction)
Cr. Appeal (DB) No. 1505 of 2023

1. Rama Bhuiyan
2. Kalua Bhuiyan

... Appellants

Versus

The State of Jharkhand

... Respondent

CORAM : HON'BLE MR. JUSTICE RATNAKER BHENGRA
HON'BLE MR. JUSTICE AMBUJ NATH

For the Appellants : Mr. Sheo Kumar Singh, Advocate
For the State : Mr. Satish Prasad, APP

Order No.03 / Dated: 31st January, 2024

IA No. 393 of 2024

Heard the learned counsel for the appellants as well as the learned counsel for the State on the interlocutory application filed by the appellants for suspension of sentence during the pendency of this criminal appeal.

The learned counsel for the appellants has submitted that the conviction was done under sections 302/34 and 201/34 of the Indian Penal Code. The learned has further submitted that this is a case in which the FIR was lodged after three days. The learned counsel has further submitted that dead body was not recovered and the Investigating Officer has not been examined. The learned counsel has further submitted that PW-2, PW-4, PW-5, and PW-6 are claiming to be the eye-witnesses but none of them has empathetically said that they had seen how the dead body was disposed of – whether it was buried or cremated. The learned counsel has further submitted that anyway dead body was not found, therefore, in absence of the dead body, it cannot be alleged that even the offence under section 302 of the Indian Penal Code can be made out against the appellants. The learned counsel has further submitted that even the skeletal remains of the dead body has not been found and, particularly, in absence of examination of the Investigating Officer nothing can be substantiated and that the witnesses have not been questioned on vital points. Therefore, the appellants may also be granted privilege of suspension of sentence, during the pendency of this criminal appeal.

Learned counsel for the State has opposed this interlocutory application for suspension of sentence, during the pendency of this criminal appeal and has submitted that PW-2, PW-4, PW-5, and PW-6 have fully supported the prosecution case and they have also stated that the appellant no.1 Rama Bhuiyan was one who had assaulted by tangi and the appellant no.2 was also present there and had assaulted. Both the appellants are party to the crime.

Having gone through the records of the case, considering the

arguments advanced by the learned counsel for the parties, and in the facts and circumstances of the case, we are inclined to suspend the sentence of the appellant no.2, during pendency of this criminal appeal, and accordingly, present appellant no.2, named above, is ordered to be released on bail, during pendency of this criminal appeal, on executing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-V, Palamau at Daltonganj in connection with Sessions Trial No.268 of 2011, arising out of Chhattarpur P.S. Case No.125 of 1999, subject to the condition that the appellant no.2 shall submit self-attested photocopy of his Aadhaar Card and mobile number before the learned court below which he will always keep active and will not change it during the pendency of this case without prior permission of the learned court below.

However, we are not inclined to suspend the sentence of the appellant no.1, during pendency of this criminal appeal. Accordingly, his prayer for suspension of sentence, during pendency of this criminal appeal, is rejected, at this stage.

Accordingly, IA No. 393 of 2024 stands disposed of.

(Ratnaker Bhengra, J.)

(Ambuj Nath, J.)

S.B./ Nibha