

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CR.A. No. 1955 of 2019

Dinesh Kumar Chauhan, S/o. Shri Mohan Singh Chauhan, aged about 28 years, R/o. Village Raikee Lalmatipara, Police Chauki - Police Station – Kushmunda, District - Korba Chhattisgarh.

--- Appellant

Versus

State of Chhattisgarh, Through : Police Station – Depika, District - Korba Chhattisgarh.

---Respondent

And

CR.A. No. 583 of 2020

Dinesh Kumar Chauhan, S/o. Mohan Singh Chauhan, aged about 28 years, R/o. Village Raiki, Lalmatiyapara, Outpost Hardibazar, Police Station - Kusmunda, District Korba Chhattisgarh.

--- Appellant

Versus

State of Chhattisgarh, Through : Station House Officer, Police of Police Station Dipka, District Korba Chhattisgarh.

---Respondent

05/08/2021	Mr. Ajay Mishra, counsel for the appellant (in Cr.A. No.1955 of 2019). Mr. N.K. Chatterjee, counsel for the appellant (in Cr.A. No.583 of 2020). Mr. Alok Nigam, G.A. for the State. Heard on I.A. No.2/2020, application for suspension of sentence and grant of bail (in Cr.A. No. 583 of 2020). Criminal Appeal No.1955 of 2019 and the Criminal Appeal No.583 of 2020 both have been filed by the same appellant- Dinesh Kumar Chauhan against the same judgment of conviction and order of sentence dated 19.03.2019, passed in S.T. No. 63 of 2017, by the Additional Sessions Judge, Katghora, District – Korba

(C.G.), whereby the appellant has been convicted in the following manner with a direction to run all the sentences concurrently :-

U/s. 458 the Indian Penal Code.	:	R.I. for 5 years and fine of Rs.300/- and in default of payment of fine, R.I. of 3 months more.
U/s. 506 -II (three times) the Indian Penal Code.	:	R.I. for 1-1 year and fine of Rs.200/- and in default of payment of fine, R.I. of 2 months more.
U/s. 395 (three times) the Indian Penal Code.	:	R.I. for 10 years and fine of Rs.2000/- and in default of payment of fine, R.I. of 2 years more.

Learned counsel appearing for the appellant in Cr.A. No.583 of 2020 would submit that the conviction against the appellant is erroneous and without any evidence of the prosecution beyond all reasonable doubt. The identifying witness P.W.-1, P.W-2 and P.W.-3 have not identified the appellant as one of the culprit. Similarly placed co-accused persons namely Parmeshwar Kumar and Raju Das have been granted bail by this Court. There is likelihood of delay in final hearing of the appeal. Hence, it is prayed that the sentence of imprisonment against the appellant be suspended and he may be enlarged on bail.

Per contra, the learned State counsel opposes the prayer for suspension of sentence and grant of bail. It is submitted that the prosecution has proved its case beyond all reasonable doubt and there is sufficient evidence present to support the charge against the appellant in the trial. Therefore, there is no case present for grant of bail to the appellant.

I have heard the learned counsel for the parties.

Considered on the submissions and also perused the record of the trial Court. After perusal of the same, this Court is of the opinion that it is a fit case to suspend the sentence and release the appellant on bail.

Accordingly, I.A. No.2/2020, application for suspension of sentence and grant of bail, is allowed.

Execution of substantive jail sentence imposed on appellant shall remain suspended and he is directed to be released on bail on his executing a personal bond for a sum Rs.25,000/- with one surety for the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on **25th October, 2021**. He shall thereafter appear before the trial Court on a date to be given by the Registry of this Court and shall continue to appear there on all such subsequent dates as are given to him by the said Court, till the disposal of this appeal.

Since, the Criminal appeal No. 583 of 2020 is a repeat appeal filed by the same appellant, therefore, the same is disposed off. However, the order for suspension of sentence shall remain effective in Cr.A. No. 1955 of 2019. The counsel appearing in Cr.A. No. 583 of 2020 is at liberty to give his appearance in Cr.A. No. 1955 of 2019 along with the counsel appearing in Cr.A. No.1955 of 2019.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge