



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No.925 of 2021

1. Aman Lahre, son of Shiv Kumar Lahre (wrongly mentioned as Lehre in the impugned order), aged about 22 years,
2. Virendra Kumar Ratre, son of Shyamlal Ratre (wrongly mentioned as Lehre in the impugned order), aged about 20 years,
3. Kaleshwer, son of Ashok Bhargaw, aged about 23 years,

All resident of village Kurda, Champa, P.S. Champa, District Janjgir Champa, Chhattisgarh

-----Appellants

Versus

State of Chhattisgarh Through Station House Officer, Police Station Champa, District Janjgir Champa (CG)

-----Respondent

Criminal Appeal No.1071 of 2021

Praful @ Pappu Jatwar S/o Mohanlal Jatwar, aged about 22 years, R/o Village Kurda, Champa, Police Station Champa, District Janjgir-Champa (CG)

-----Appellant

Versus

State of Chhattisgarh Through District Magistrate, Janjgir Champa (CG)

-----Respondent

Criminal Appeal No.1044 of 2021

Ravi Kumar Bhargaw, aged 23 years, S/o Manharan Bhargaw, R/o Kurda, Champa, P.S. Champa, District Janjgir-Champa (CG)

-----Appellant

Versus

State of Chhattisgarh Through Police Station Champa, District Janjgir-Champa (CG)

-----Respondent



And

Criminal Appeal No.1131 of 2021

Rileshwer @ Sittu S/o Santram Kumar Khande (wrongly mentioned as Santram Khande), aged about 20 years, R/o Kurda, Champa, Police Station Champa, District Janjgir-Champa (CG)

-----Appellant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Champa, District Janjgir-Champa (CG)

-----Respondent

Division Bench:-

Hon'ble Shri Justice Sanjay K. Agrawal &

Hon'ble Shri Justice Sanjay S. Agrawal

Motion	
29/7/2022	Mr.Ravi Maheshwari, counsel for the appellants in Cr.A.No.925/2021. Mr.Awadh Tripathi, counsel for the appellant in Cr.A.No.1071/2021. Mr.Abhishek Sinha, Senior Advocate with Mr.Samrath Sinha, counsel for the appellant in Cr.A.No.1044/2021. Mr.Avinash Chand Sahu, counsel for the appellant in Cr.A.No.1131/2021. Ms Prachi Mishra, Additional Advocate General with Mr.Ashish Tiwari, Government Advocate for the respondent/State. By the impugned judgment dated 14.7.2021, the First Additioinal Sessions Judge, Janjgir, District Janjgir Champa in



S.T.No.17/2020 convicted the appellants for offences punishable under Sections 302 read with Section 149 and 148 of the IPC and sentenced them to undergo rigorous imprisonment for life and fine of Rs.20,000/-, in default of payment of fine to further undergo simple imprisonment for one year under Section 302 read with Section 149 of the IPC and rigorous imprisonment for one year and fine of Rs.1000/-, in default of payment of fine to further undergo simple imprisonment for one month under Section 148 of the IPC. They have challenged the same in these criminal appeals.

Heard on I.A.No.1/2021 for suspension of sentence and grant of bail to appellants-Aman Lahre, Virendra Kumar Ratre and Kaleshwer in Cr.A.No.925/2021, I.A.No.01/2022 for suspension of sentence and grant of bail to appellant-Prafful @ Pappu Jatwar in Cr.A.No.1071/2021, I.A.No.01/2021 for suspension of sentence and grant of bail to appellant-Ravi Kumar Bhargaw in Cr.A.No.1044/2021 and I.A.No.01/2021 for suspension of sentence and grant of bail to appellant-Rileshwer @ Sattu in Cr.A.No.1131/2021.

Mr.Ravi Maheshwari, learned counsel appearing for the appellants in Cr.A.No.925/2021, would submit that nothing has been seized from possession of appellant-Virendra Kumar Ratre, whereas pursuant to memorandum statement of appellant-Aman Lahre vide Ex.P-9 and appellant-Kaleshwer vide Ex.P-14, bamboo sticks have been seized from their possession vide Ex.P-10 and Ex.P-15, in which blood has been found in FSL report. He would further submit that there is no evidence against the present appellants to connect them in offence in question, as



such, they are entitled to be released on bail.

Mr.Awadh Tripathi, learned counsel appearing for the appellant in Cr.A.No.1071 of 2021, would submit that pursuant to memorandum statement of appellant-Prafful @ Pappu Jatwar vide Ex.P-16, only belt has been recovered from his possession vide Ex.P-17, in which neither blood has been found nor it has been subjected to FSL and as such, appellant-Prafful @ Pappu Jatwar is entitled to be released on bail.

Mr.Abhishek Sinha, learned Senior Counsel with Mr.Samrath Marhas, learned counsel appearing for the appellant-Ravi Kumar Bhargaw in Cr.A.No.1044/2021, would submit that so far as appellant-Ravi Kumar Bhargaw is concerned, as per Ex.P-1 (FIR) he was only standing where the accused persons are said to have assaulted deceased Ashutosh Dewangan and as such, he was not a member of unlawful assembly in the light decisions of the Supreme Court in the matters of Nawab Ali v. The State of Uttar Pradesh reported in (1974) 4 SCC 600 and Uday Singh v. State of Madhya Pradesh reported in (2020) 19 SCC 759. Therefore, appellant-Ravi Kumar Bhargaw is entitled to be released on bail.

Mr.Avinash Chand Sahu, learned counsel appearing for appellant-Rileshwer @ Sattu in Cr.A.No.1131/2021, would submit that only motor-cycle has been seized from possession of appellant-Rileshwer @ Sattu and no incriminating article has been seized from his possession and as such, he is entitled to be released on bail.

Ms Prachi Mishra, learned Additional Advocate General appearing for the respondent/State, would submit that there is



sufficient material against the appellants as from memorandum statements of appellants-Aman Lahre and Kaleshwer, incriminating articles have been seized in which blood has been found. She would further submit that Pintu Yadav @ Jamuna Yadav (PW-1) has clearly supported the case of the prosecution and all the appellants are party to the offence and there is ocular and circumstantial evidence available on record to connect the appellants in offence in question. She would reply upon the decisions of the Supreme Court in the matters of Om Prakash v. State of Haryana reported in (2014) 5 SCC 753 and Kattukulangara Madhavan (dead) through legal representatives v. Majeed and others reported in (2017) 5 SCC 568.

We have heard learned counsel appearing for the parties, considered their rival submissions made herein-above and also went through the records with utmost circumspection.

Considering the material available on record, particularly incriminating articles recovered from possession of appellants-Aman Lahre and Kaleshwer in Cr.A.No.925/2021, we are not inclined to allow the bail application filed on behalf of appellants-**Aman Lahre and Kaleshwer** in Cr.A.No.925/2021. Accordingly, their bail applications are rejected. However, considering the material available on record and no incriminating article has been seized from appellant-Virendra Kumar Ratre in Cr.A.No.925/2021, appellant-Prafful @ Pappu Jatwar in Cr.A.No.1071/2021 and appellant-Rileshwer @ Sittu in Cr.A.No.1131/2021, we are inclined to allow the bail applications filed on behalf of appellant-**Virendra Kumar Ratre** in Cr.A.No.925/2021, appellant-**Prafful @ Pappu Jatwar** in



Cr.A.No.1071/2021 and appellant-**Rileshwer @ Sittu** in Cr.A.No.1131/2021. However, considering the role of appellant-**Ravi Kumar Bhargaw** particularly, no incriminating article has been seized from his possession and in the light of decision of the Supreme Court in the matter of **Uday Singh** (supra), we are inclined to allow the bail application filed on behalf of appellant-**Ravi Kumar Bhargaw** in Cr.A.No.1044/2021.

Accordingly, bail applications filed on behalf of appellant-**Virendra Kumar Ratre** in Cr.A.No.925/2021, appellant-**Prafful @ Pappu Jatwar** in Cr.A.No.1071/2021, appellant-**Rileshwer @ Sittu** in Cr.A.No.1131/2021 and appellant-**Ravi Kumar Bhargaw** in Cr.A.No.1044/2021 are allowed and substantive jail sentence imposed upon them is suspended during the pendency of these appeals and they are directed to be released on bail on thier furnishing a personal bond in the sum of Rs.25,000/- each along with one surety in the like sum to the satisfaction of the concerned trial Court for their appearance before the Registry of this Court on **5.9.2022**. They 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 given to them by the said Court, til the disposal of this appeal. However, observation made herein-above is only confined to disposal of bail applications and shall not be construed as opinion on merits of the matters.

Sd/-

(**Sanjay K. Agrawal**)
Judge

Sd/-

(**Sanjay S. Agrawal**)
Judge

B/-