



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 1176 of 2021

1. Dwarika Sahu S/o Santuram Sahu Aged About 31 Years R/o Mongra, Bhatapara, Thana Mahasamund District Mahasamund Chhattisgarh
2. Kundan Dhiwar S/o Puran Lal Dhiwar Aged About 24 Years R/o Akhrapara, Village Belsonda, Mahasamund District Mahasamund Chhattisgarh

---- Appellants

Versus

- State Of Chhattisgarh Through The Police Station Mahasamund District Mahasamund Chhattisgarh

--- Respondent

DB

Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Sachin Singh Rajput JJ.

17.08.2022	Mr. J. K. Gupta, counsel for the appellants. Mr. Ashish Tiwari, Govt. Advocate for the State/respondent. Heard on I.A.No.1, application for suspension of sentence and grant of bail to the appellants. By the impugned judgment and order of sentence dated 08.09.2021 passed by the learned Special Judge (NIA) District Bilpasur, (C.G.) in Special Case (NIA) No.4/2018, the appellant No.1 (Dwarika Sahu) has been convicted and sentence in the following manner:- <table><tr><th>Conviction</th><th>Sentence</th></tr><tr><td>Under Section 489(A) of I.P.C.</td><td>R.I. for 10 years and fine of Rs. 5000/- and in default of payment of fine additional R.I. for 3 Months.</td></tr></table>	Conviction	Sentence	Under Section 489(A) of I.P.C.	R.I. for 10 years and fine of Rs. 5000/- and in default of payment of fine additional R.I. for 3 Months.
Conviction	Sentence				
Under Section 489(A) of I.P.C.	R.I. for 10 years and fine of Rs. 5000/- and in default of payment of fine additional R.I. for 3 Months.				



Under Section 489(C) of I.P.C.	R.I. for 7 years and fine of Rs.5000/- and in default of payment of fine Additional R.I. for 3 months.
Under Section 489(D) of I.P.C.	R.I. for 10 years and fine of Rs.5,000/- and in default of payment of fine Additional R.I. for 3 months.

The appellant No.2 has been convicted for the offence punishable under Section 489(C) of the Indian Penal Code and sentenced to undergo R.I. for 7 years and pay fine of Rs.5,000/-, in default to further undergo 03 months imprisonment.

Learned counsel for appellants submits that appellants have not committed any offence and have been falsely implicated in this case. He further submits that there is no evidence against the appellants and only on the basis of statement of co-accused, the present appellant has been implicated in this case. It is also submitted that in his cross-examination the Sub-Inspector Chandrakant Sahu (PW-9) has also accepted that in Talashi Punchnama (Ex.P-2) and Seizure Memo (Ex.P-3) the name of accused Kundan was not there nor his signature was there. Appellant No.2 was on bail during trial, therefore, their applications deserve to be allowed.

Learned State Counsel submits that on the memorandum statement of Ramdas Manzi (PW-1), counterfeit currency of Rs.43,100/- & Rs.7,700/- have been recovered from the appellant No.1 and 2 respectively. He further



relied upon the judgment of Hon'ble the Supreme Court in the case of **K. Hasim Vs. State of Tamilnadu reported in (2005) 1 SCC 237.**

We have heard learned counsel for the parties and considered their rival submissions and also perused the records with utmost circumspection.

Taking into consideration the evidence available on record and recovery of counterfeit currency to the extent of Rs.43,100/- from the possession of appellant No.1, we do not consider it to be a fit case to suspend the sentence of appellant No.1 Dwarika Sahu. However, liberty is reserved to appellant No.1 to file a fresh application if this appeal is not taken up for hearing for further period of one year. Considering the facts and circumstances of the case and the evidence available on record particularly the name of appellant No.2 has been implicated only on the basis of statement of co-accused and further considering the fact that appellant No.2 was on bail during trial and he has not misused the liberty granted to him. In view of the above facts and circumstances of the case, this Court is of the opinion that, it is a fit case to suspense the sentence and grant of bail to appellant No.2, Kundan Dhiwar. Accordingly, I.A.No.1 is **allowed**.

The substantive jail sentence awarded to the appellant No.2 is suspended during the pendency of this appeal and he is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- along with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the Registry of this Court on **29th September, 2022**. 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.

However, observation made herein-above is only confined to disposal of bail application and shall not be construed as opinion on merits of the matter.

Certified copy as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

Sd/-

(Sachin Singh Rajput)
Judge

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