



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.A. No. 1344 of 2021

- Pramod Kumar Rathiya S/o Rajaram Rathiya Aged About 21 Years R/o Village Bichpara Bhelwatar, Police Station - Kartala, At Present R/o Patelpara Rajgamar Basti, Police Chowki Rajgamar, District - Korba (C.G.)
----- **Appellant**

Versus

- State Of Chhattisgarh Through Police Station Balco Nagar, Korba, District - Korba (C.G.)

----- Respondent

28.09.2022	Smt. Pushpa Dwivedi, counsel for the Appellant. Ms. Akshra Amit, Panel Lawyer for the State/Respondent. Heard on I.A. No.02/2021, an application filed under Section 389 of Cr.P.C., 1973 seeking suspension of sentence and grant of bail. By virtue of the impugned judgment of conviction and order of sentence dated 10.04.2019 passed by the learned Sessions Judge, Korba, District Korba (C.G.) in Session Trial No.72/2018 (Crime No.155/2018), the Appellant stands convicted and sentenced as under:- <table><tr><th>Conviction</th><th>Sentence</th></tr><tr><td>U/s 307 of IPC</td><td>R.I. for 10 year and fine of Rs.1,000/- and in default of payment of fine additional S.I. for 3 months.</td></tr></table> Learned counsel appearing for the Appellant, while referring to the statement of Doctor Divik Hareeshchandra Mittal (PW-8) and the report (Ex.P.-20) submitted by him, submits that though the injuries are grievous in nature as opined by him but since the said injury was not endangering to the life of the injured Somdev Rathiya as per the provision prescribed under Eighthly to Section 320 of IPC and as the Appellant is in jail since 07.04.2018, therefore, if the remaining jail sentence is allowed to run, the very purpose of	Conviction	Sentence	U/s 307 of IPC	R.I. for 10 year and fine of Rs.1,000/- and in default of payment of fine additional S.I. for 3 months.
Conviction	Sentence				
U/s 307 of IPC	R.I. for 10 year and fine of Rs.1,000/- and in default of payment of fine additional S.I. for 3 months.				



filing this appeal would become infructuous. It is, therefore, submitted by her that the Appellant be released on bail, pending decision of this appeal.

On the other hand, learned counsel appearing for the Respondent/State, while opposing the said application, submits that since the injuries were found to be grievous in nature as per the opinion given by the said doctor, and therefore, the Court below after due consideration of the evidence, has rightly held the Appellant guilty in connection with the alleged offence. The said application, therefore, deserves to be rejected.

I have heard learned counsel appearing for the parties and perused the entire record carefully.

Having considered the facts and circumstances of the case, considering further that the Appellant is in jail since 07.04.2018 and thus he has served more than four years five months out of ten years maximum jail sentence awarded to him and that by considering further that the hearing of this appeal will take sometime, I am, therefore, inclined to allow the said application.

Accordingly, I.A. No.02/2021 is allowed and it is directed that the substantive jail sentence imposed upon the Appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on his furnishing a personal bond of Rs.25,000/- along with one surety of like sum to the satisfaction of the concerned trial Court for his appearance before the Registry of this Court on 22nd November, 2022. He shall thereafter continue to appear before the concerned trial Court on such further dates to be given to him by the Registry of this Court and shall continue to appear on such subsequent dates as are given to him by the said Court, till the final disposal of this appeal.

I.A. No.02/2021 stands disposed of.

Let the matter be listed for final hearing in its turn.

Sd/-

(Sanjay S. Agrawal)
Judge