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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 1426/2011

% Judgment delivered on: 21st November, 2011

LOKESH @ LUVKUSH Appellant
Through : Mr. Sameer Chandra, Adv.

versus

STATE Respondent
Through : Mr. Navin Sharma, APP for State.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

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| 1. Whether the Reporters of local papers
may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported
in the Digest? | Yes |

SURESH KAIT, J. (Oral)

CRL. A. 1426/2011

- 1 Notice issued.
- 2 Mr. Navin Sharma, learned APP accepts notice on behalf of State.
- 3 At joint request, the matter is taken up for final disposal.
- 4 The petitioner vide the said judgment has assailed the judgment

and order on pleading guilty dated 15.10.2011.

5 Mr. Sameer Chandra, learned counsel for the appellant has submitted that vide application dated nil, moved from the Jail, it is stated that the applicant has already undergone 03 years of incarceration in the instant case. He was granted bail by the learned trial court but due to non-arrangement of surety, same was never utilised and he continued to remain in Jail. It is further stated that in the application that because of the extreme poverty, though, the applicant is innocent, owing to sheer compulsion, he pleaded guilty in the instant case.

6 Learned counsel for the appellant has drawn the attention of this court towards another application moved by the appellant, wherein, it is stated that he had been falsely implicated in this case, and if necessary, an enquiry may be conducted. Neither the police conducted the raid nor any article was got recovered from the house of the appellant. However, he preferred not to contest this case due to poverty and his family's responsibility consisting of two daughters, wife, one younger brother and age old parents.

7 Accordingly, in this application, the appellant admitted his guilt.

8 Learned counsel for the appellant submits that the said two applications were moved by the appellant for the plea bargaining, however, he was not aware about the fact whether the plea bargaining is applicable only for the offences wherein the maximum sentence is 07 years.

9 On the other hand learned APP for State submits that under Section 265 A Cr.P.C., the plea bargain is not applicable, where such offence effects the socio-economic condition of the country or has been committed against women, or child below the age of 14years.

10 Therefore, the learned trial Judge has wrongly accepted the application and delivered the judgment on admitting the guilt in the instant case.

11 In rejoinder, learned counsel for the appellant has argued that though a private counsel was engaged by the appellant to contest his case, however, he was not available at the date of the impugned judgment.

12 Time and again, Hon'ble Supreme Court has reminded that in case a proper legal assistance is not advanced by any Advocate to a accused person, then it is the duty of the concerned court to provide

him an advocate from legal aid for proper legal assistance to contest his case.

13 I find, in the present case, situation is reverse, the appellant has not been provided proper legal assistance who could narrate him the consequences of pleading guilty.

14 Facts of the case are peculiar in nature. The instant case is fully covered under Section 265 A Cr.P.C., as socio-economic condition of the country is affected by the alleged recovery of fake currency notes from the appellant.

15 The concerned trial court is directed to proceed with the matter and appellant Lokesh @ Luvkush be tried along with other co-accused persons from the stage of applicant being pleaded guilty as per provisions laid down in Law.

16 I further made it clear that the application moved by the appellant from Jail need not to be looked into at the time of passing of final judgment.

17 As pointed out by learned counsel for the appellant, he was granted bail by trial court, but due to sheer poverty, he was unable to furnish bail bonds. In the circumstances, I leave it to the trial court, if it

deems fit, it may reduce the bail amount/conditions.

18 Keeping the above discussion into view and, in the interest of justice, I set aside the impugned judgment dated 15.10.2011.

19 Criminal Appeal 1426/2011 is disposed of on above conditions.

20 Dasti.

CRL. M.B. 2024/2011

The application is disposed of as infructuos.

SURESH KAIT, J

NOVEMBER 21, 2011

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