

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 765 of 2015

1. Teeju @ Faguram, S/o. Gorelal Dhurve, Aged About 34 Years, R/o Village - Bandha, Police Station - Rajanawagaon, Civil & Revenue District – Kabirdham, Chhattisgarh
2. Raju Vishwakarma, S/o. Tirath Ram Vishwakarma, Aged About 27 Years, R/o. Village - Rala, Police Station - Birsa, District - Balaghat (M.P.) Present Address Village Bandha, Police Station - Rajanawagaon, Civil & Revenue District Kabirdham, Chhattisgarh

----Applicants

Versus

1. State of Chhattisgarh, Through District Magistrate/Station House Officer, Police Station Kawardha, District Kabirdham (C.G.).

---- Respondent

For Applicants	:	Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	:	Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

31/08/2015

1. Heard.
2. This petition is directed against the refusal of suspension of sentence under Section 389 (1) of Cr.P.C., by the Additional Sessions Judge, Kabirdham (Kawardha) in Criminal Appeal No.62/2015.

3. Learned counsel appearing on behalf of the applicants submits that the applicants were arrested on 24.11.2014 and subsequently they faced the trial under Section 420, 120-B and 406 of I.P.C. Subsequently, after trial in Criminal Case No.2458/2014, the applicants were convicted alongwith other accused by an order dated 30.07.2015, by the judicial Magistrate First Class, Kabirdham, District Kabirdham (Kawardha). It is further contended that the appeal was preferred by the applicants and the application for suspension of sentence was also moved under Section 389 (1) of Cr.P.C., however, the same has been rejected by the learned Court below, therefore, the instant petition.
4. Learned counsel for the applicants submits that the entire evidence is on record and the applicants who are local resident, there is no chance of applicants to run away from the jurisdiction of the Court. He further submits that no seizure was made from the present applicant and the case is already fixed for final hearing, therefore, the learned Appellate Court has rejected the application for suspension of sentence by holding that the appeal may not take much time for hearing, therefore, that can not be the ground for rejection. He further submits that other co-accused persons have preferred Cr.M.P.No.700/2015, wherein the sentence has been suspended by this Hon'ble Court vide order dated 12.08.2015 and the present applicants are in same footing.
5. The State counsel opposes the same, however, do not dispute the fact that the sentence of the other co-accused persons has been suspended.

6. I have gone through the order dated 05.08.2015. Having regard to the fact that the applicants have been convicted and the appeal is already admitted for final hearing in the facts of the case without observation on merits the petition is allowed. Execution of substantive jail sentence imposed on applicants shall remain suspended till the appeal No.62/2015 is decided on merits and the applicants are directed to be released on bail on their executing a personal bond for a sum Rs.25,000/- each with two sureties for the like sum to the satisfaction of the trial Court. The applicants are directed to appear before the trial court on each and every date given by the said Court.
7. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge