

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
CRIMINAL PETITION NO. 577 OF 2015

ORDER:

At the admission stage the following order is passed after hearing the learned counsel for petitioner/appellant/accused and the learned Public Prosecutor.

2. The Appellate Court refused to suspend the sentence on the sole ground that the accused was sentenced by the Trial Court for grave offences under Sections 363 and 376 IPC.

3. The submission of the learned counsel for the petitioner is that the petitioner is an employee and no apprehension is made by the prosecution that he would abscond not attend the Court if granted suspension of sentence and bail and therefore, suspension of sentence and bail may be granted to him.

4. This Court finds force in the said submission. No doubt, the petitioner is convicted for the offences under Sections 376 and 363 IPC. Be that as it may, the gravity of the offence cannot be a ground to refuse suspension of sentence, particularly when no material is placed by the prosecution that if suspension of sentence and bail are granted, the petitioner/accused would abscond and not attend the Court to prosecute the appeal. In the decision cited by the petitioner reported in ***KIRAN KUMAR V.***

STATE OF M.P.^[1], the Hon'ble Supreme Court observed that the normal rule is that when the appeal is pending the sentence should be suspended and rejection is only by way of exception. It further observed that in such case also every endeavour should be made to have the appeal posted for early hearing and disposal.

6. It is needless to say that the above decision squarely

applies to the present case since the prosecution has not put forth any exceptional circumstance to reject the suspension of sentence.

7. In the result, this Criminal Petition is allowed and the order dated 19.1.2015 in CrI.M.P.No. 7 of 2015 in CrI. Appeal No. 15 of 2015 on the file of X Additional District and Sessions Judge, Tirupati is set aside and the petitioner/appellant/accused is granted suspension of sentence of imprisonment and bail till the disposal of the appeal on his executing a bond for Rs. 25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a likesum to the satisfaction of Trial Court. The Appellate Court is directed to dispose of the Criminal Appeal No. 15 of 2015 within three months from the date of receipt of a copy of this order.

8. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 10.02.2015
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Note: (1) Registry is directed to mark a copy of the order to the Trial Court as well as the Appellate Court.
(2) Furnish copy by tomorrow
B/o

[\[1\]](#) (2001) 9 SCC 211