

**CRM-M-12863-2015 and
CRM-M-15257-2015**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision:11.05.2015

1. CRM-M-12863-2015

Mahender Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

AND

2. CRM-M-15257-2015

Ram Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

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

Present: Mr. J.S.Bedi, Sr. Advocate with
Mr. Lovekirat S. Chahal, Advocate,
for the petitioner in CRM-M-12863-2015.

Mr. Dalip Kumar Tuteja, Advocate,
for the petitiioenr in CRM-M-15257-2015.

Mr. Anil Mehta, DAG, Haryana.

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Paramjeet Singh, J.(Oral)

**CRM-15201-2015 in
CRM-M-12863-2015**

Allowed, as prayed for. Annexures A-7 to A-12 are taken on record.

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This order shall dispose of CRM-M-12863-2015 titled 'Mahender Singh vs. State of Haryana' and CRM-M-15257-2015, titled 'Ram Singh vs. State of Haryana' as common questions of fact and law are involved in both the petitions.

In CRM-M-12863-2015, learned State counsel has filed reply which is taken on record.

In both the petitions, the petitioners have challenged the orders dated 06.04.2015 passed by learned Additional Sessions Judge, Rohtak whereby applications moved by the petitioners for suspension of sentence awarded by learned Additional Chief Judicial Magistrate, Rohtak, have been dismissed.

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

Learned counsel for the petitioners contend that the petitioners have been convicted by the trial Court. The petitioners have preferred appeals along with applications under Section 391 of the Code of Criminal Procedure for leading additional evidence before the lower Appellate Court which may not be decided in near future, rather it will

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take a long time, therefore, sentence of the petitioners may be suspended during the pendency of appeals.

Per contra, learned State counsel vehemently opposes the contentions of learned counsel for the petitioners and supports the impugned orders.

I have considered the rival contentions of learned counsel for the parties.

Admittedly, it is the prerogative of the lower Appellate Court to decide the application for suspension of sentence of the petitioners by recording reasons. However, the fact remains that there are disputed facts which can be appreciated only by the lower Appellate Court after examining the evidence led by the prosecution as well as defence. Petitioner-Mahender is stated to be 75 years old and role played by petitioner-Ram Singh is of attesting witness. At this stage, it is to be seen whether there is a necessity to detain the petitioners behind bars.

Keeping in view the above and also the fact that the appeal is not likely to be decided in near future and no useful purpose would be served by keeping the petitioners behind bars, both the petitions are allowed and the impugned orders dated 06.04.2015 are set aside. The sentence of the petitioners shall remain suspended till final decision of the appeals, subject to furnishing of bail bonds to the satisfaction of the lower Appellate Court. However, it is made clear that the petitioners will personally appear before the lower Appellate Court at the time of

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pronouncement of judgment.

11.05.2015
parveen kumar

**(Paramjeet Singh)
Judge**