

In the High Court of Punjab and Haryana at Chandigarh

CRM M-16807 of 2015
Date of Decision: May 21, 2015

Jagat Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR JUSTICE PARAMJEET SINGH

Present: Mr. Dalip Kumar Tuteja, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

In this petition, the petitioner has challenged the order dated 06.04.2015 (Annexure A/4) passed by learned Additional Sessions Judge, Rohtak whereby application moved by the petitioner for suspension of sentence awarded by learned Additional Chief Judicial Magistrate, Rohtak, has been dismissed.

Notice of motion.

On the asking of the Court, Mr. Anil Mehta, Deputy Advocate General, Haryana, accepts notice on behalf of the State.

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

Learned counsel for the petitioner contends that the petitioner along with other co-accused has been convicted by the trial Court. The petitioner and other co-accused have preferred separate appeals before the

lower Appellate Court which may not be decided in near future, rather it is likely to take a long time, therefore, sentence of the petitioner may be suspended during the pendency of appeal before the lower appellate Court.

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

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 petitioner 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. At this stage, it is to be seen whether there is a necessity to detain the petitioner behind bars.

Keeping in view the fact that appeal may take time to be decided and no purpose would be served by keeping the petitioner behind bars, impugned order dated 06.04.2015 is set aside. The sentence of the petitioner shall remain suspended till final decision of the appeal by the lower appellate Court, subject to his furnishing of bail bonds to the satisfaction of the lower Appellate Court. Learned Lower Appellate Court has already been directed by this Court in CRM M-12863 of 2015 – Mahender Singh vs. State of Haryana, decided on 11.05.2015 filed by a

co-convict, to decide the appeal, filed by the petitioner in that case, within two months from the date of receipt of certified copy of the order in that case. It is directed that the lower appellate Court shall decide all the connected appeals including present one within the stipulated time as per order dated 11.05.2015. However, it is made clear that the petitioner will personally appear before the lower Appellate Court at the time of pronouncement of judgment.

Disposed of in the above terms.

May 21, 2015
vkd

[Paramjeet Singh]
Judge