

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 867 of 2017

S. Shakti S/o S/o Shri Sallaiya Aged About 55 Years R/o Door
 No.03/135 Ramji Nagar Gandhi Nagar Street, Thana Ramji Nagar,
 District Trichi (Tamilnadu.)

---- Petitioner

Versus

State Of Chhattisgarh Through District Magistrate Dhamtari, Civil &
 Revenue District Dhamtari Chhattisgarh.

---- Respondent

For the Petitioner : Shri Sunil Sahu, Advocate.
 For the Respondent / State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

03.08.2017

1. Heard.

2. The prayer made by the petitioner in this petition under Section 482 of the Code of Criminal Procedure is to set aside the impugned order dated 10.7.2017 passed by the Court of Additional Sessions Judge, Dhamtari in Criminal Appeal No. 51 of 2017 by which an application under Section 389 of the Cr.P.C. of the petitioners has been rejected.

3. Learned counsel for the petitioner submits that the petitioner and 15 others were tried before the Court of Chief Judicial Magistrate in Criminal Case No. 437 of 2016 and by order dated 28.6.2017 they have been convicted for the offence under Sections 454, 380, 120B of the Indian Penal

Code and sentenced with RI for three years and to pay fine of Rs.1,000/- on each count. The petitioners were in jail during the whole trial. Subsequent to the conviction by the trial Court, an appeal has been preferred and the application under Section 389 of the Cr.P.C. was moved which has been rejected by the Appellate Court by the impugned order stating that the appellants are in jail since the initiation of the trial and as such, they are not entitled for suspension of sentence and grant of bail. Hence, this petition.

4. Learned counsel for the petitioner submits that almost one year and three months of custody has been undergone by the petitioner which is about half of the sentence awarded and it was only for this reason he was entitled for suspension of sentence and grant of bail. Hence, it is prayed that the petition may be allowed.

5. Learned counsel for the State has opposed the arguments and the submissions made in this behalf.

6. The petitioner himself is a resident of District Trichi, Tamilnadu State. The charge of offence against the petitioner had been of committing trespass and theft in a bank for which he has been convicted and sentenced. Considering the fact that the petitioner is not a local resident and in case he is not acquitted in the appeal, it shall be difficult to get his availability and for this reason, it does not appear to be proper to suspend the sentence imposed on the petitioner and enlarge him on bail. Hence, the petition is dismissed.

7. However, on the request of the petitioner, a direction is issued to the Appellate Court to dispose off the appeal, expeditiously, preferably within a period of three months from the date of receipt of a copy of this order.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi