

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.797 of 2018**

Shekhar Kothari, son of Shri Amarchand Kothari, aged about 36 years, Chartered Accountant, resident of J-8 Bhairav Society, Near Jain Mandir, Pachpedi Naka, P.S. Tikrapara, Raipur, District Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through the District Magistrate, Dhamtari, District Dhamtari

--- Respondent

For Applicant	:	Shri B.P. Sharma, Advocate
For Respondent	:	Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board**

2.8.2018

1. Heard on admission as well as on I.A. No.1 of 2018 for interim bail and on I.A. No.2 of 2018 under Section 389(2) read with Section 482 of the Code of Criminal Procedure.
2. This revision has been preferred against the order dated 9.7.2018 passed by the Additional Sessions Judge (FTC), Dhamtari in Criminal Appeal No.41 of 2018, whereby the application for suspension of sentence and grant of bail to the Applicant during pendency of the said appeal has been rejected.
3. Vide the judgment dated 7.6.2018 passed by the Chief Judicial Magistrate, Dhamtari in Criminal Case No.172 of 2013, the Applicant has been convicted under Sections 420/34, 467/34, 468/34 and 471/34 of the Indian Penal Code and sentenced with rigorous imprisonment for 5 years and fine of Rs.2,000/-, rigorous imprisonment for 7 years and fine of Rs.5,000/-, rigorous imprisonment for 5 years and fine of Rs.2,000/- and rigorous

imprisonment for 1 year and fine of Rs.200/-, respectively. Against the judgment of conviction and sentence dated 7.6.2018, an appeal, being Criminal Appeal No.41 of 2018 has been preferred by the Applicant before the Court of Session at Dhamtari. In the said criminal appeal, an application was moved on behalf of the Applicant under Section 389(1) of the Code of Criminal Procedure for suspension of sentence and grant of bail, which has been rejected vide the impugned order dated 9.7.2018. Hence, this revision.

4. Learned Counsel appearing for the Applicant submits that the Applicant is a Chartered Accountant. He was on bail during trial and he did not misuse the liberty extended to him during trial. He has already suffered custody for 349 days. Therefore, the jail sentence imposed upon him may be suspended and he may be extended the benefit of bail.
5. Learned Counsel appearing for the State/Respondent opposes the prayer.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. Having regard to the facts and circumstances of the case, particularly to the fact that the Applicant was on bail during trial and he has already suffered custody for 349 days, invoking the power under Section 389(2) read with Section 482 of the Code of Criminal Procedure, I am inclined to suspend his jail sentence and release him on bail.

8. Therefore, it is directed that during pendency of Criminal Appeal No.41 of 2018 before the Additional Sessions Judge (FTC), Dhamtari, the jail sentence imposed upon the Applicant shall remain suspended and he shall be released on bail on furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance before the Trial Court as and when directed.
9. Consequently, I.A. No.1 of 2018, I.A. No.2 of 2018 and the revision are disposed of in the aforesaid terms.

Sd/-

(Arvind Singh Chandel)
Judge