

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 880 of 2018**

Mohd. Azam Rizvi S/o Karimuddin Musalman, aged about 48 years R/o – Sapna Colony, Aathwani Street, Dhamtari, Distt. - Dhamtari (C.G.).

--- Applicant**Versus**

State of Chhattisgarh, Through : District Magistrate, Dhamtari, Distt. Dhamtari (C.G.).

---- Respondent

For Applicant	:	Mr. Akhthar Hussain, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**20/08/2018**

1. Heard on admission as well as on I.A. No. 01/2018, an application under Section 389 (2) read with Section 482 of the Cr.P.C.
2. This revision has been preferred against the order dated 03/08/2018 passed by the Additional Sessions Judge (FTC), Dhamtari in Cr.A. No. 27/2018, whereby the application for suspension of sentence and grant of bail to the applicant during the pendency of the appeal has been rejected.
3. Vide the judgment dated 07/06/2018 passed by the Chief Judicial Magistrate, Dhamtari in Criminal Case No. 172 of 2013, the applicant and other co-accused- Shekhar Kothar have been convicted under Sections 420/34, 467/34, 468/34 and 471/34 of the IPC and sentenced

to undergo RI for 5 years and fine of Rs. 2000/-, RI for 7 years and fine of Rs. 5000/-, RI for 5 years and fine of Rs. 2000/- and RI for 1 year and fine of Rs. 200/-, respectively. Against the judgment of conviction and sentence dated 07/06/2018, an appeal, being Criminal Appeal No. 27 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 03/08/2018. Hence, this revision.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is a contractor and has been falsely implicated in the present case. There would be no case made out against the present applicant. He further submits that during trial, the applicant was on bail and he did not misuse the liberty extended to him during trial. The applicant has already suffered custody of 600 days. He further submits that the application under Section 389 (2) read with 482 of the Cr.P.C moved by the co-accused – Shekhar Kothari has already been allowed by this Court in CRR No. 797/2018 vide order dated 02/08/2018, therefore, the jail sentence imposed upon the applicant may be suspended and he may be extended the benefit of bail.
5. Learned Counsel appearing for the State opposes the prayer for grant of bail and supported the impugned judgment.
6. I have heard Learned Counsel appearing for the parties and perused the material available on record.

7. Having regard to the facts and circumstances of the case, particularly to the fact that the applicant was on bail during trial, he has already suffered custody of 600 days and the application filed under Section 389 (2) of Cr.P.C by the co-accused Shekhar Kothari in Criminal Revision No. 797/2018 has been allowed vide order dated 02/08/2018 by this Court. Therefore, invoking the power under Section 389 (2) read with Section 482 of the Cr.P.C, I am inclined to grant the benefit of bail to this applicant.
8. Accordingly, it is directed that during pendency of Criminal Appeal No. 27 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. 01/2018 and the revision are disposed of in the aforesaid terms.
10. Certified copy today.

Sd/-
(Arvind Singh Chandel)
Judge