

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.3433 of 2018 (O&M)
Date of Decision : 10.10.2018

Davinder Sharma
..... Petitioner
Versus
State of Haryana
..... Respondent
CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Namit Khurana, Advocate for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant revision petition under Section 401 Cr.P.C. against the order dated 10.09.2018, passed by the learned Addl. Sessions Judge, Yamuna Nagar vide which the application moved by the petitioner for suspension of sentence has been dismissed.

Vide judgment of conviction dated 16.05.2018 and order of sentence dated 18.05.2018, passed by the learned Addl. Chief Judicial Magistrate, Yamuna Nagar at Jagadhri, the petitioner and his two co-accused namely Geeta and Galib Hasan were convicted and sentenced as under:-

Sr. No.	Sections	Imprisonment	default
1.	419 IPC	Rigorous imprisonment for a period of two years and a fine of Rs.1,000/ each	To undergo simple imprisonment for a period of 01 month
2.	420 IPC	Rigorous imprisonment for a period of 05 years and a fine of Rs.3,000/- each	To undergo simple imprisonment for a period of 03 months
3.	467 IPC	Rigorous imprisonment for a period of 05 years and a fine of Rs.3,000/- each	To undergo simple imprisonment for a period of 03 months

4.	468 IPC	Rigorous imprisonment for a period of 05 years and a fine of Rs.4,000/- each	To undergo simple imprisonment for a period of 04 months
5.	471 IPC	Rigorous imprisonment for a period of 05 years and a fine of Rs.3,000/- each	To undergo simple imprisonment for a period of 03 months
6.	120-B IPC	Rigorous imprisonment for a period of 03 years and a fine of Rs.1,000/- each	To undergo simple imprisonment for a period of 01

The aforesaid co-accused have already been granted bail by the appellate court on the application(s) filed under Section 389 Cr.P.C., vide separate orders dated 19.07.2018 but when Davinder Sharma filed an application for suspension of sentence that was dismissed vide order dated 06.12.2018, by the learned appellate court while observing as under:-

Vide order dated 19.7.2018, passed in Crl. Case titled Galbi vs. State of Haryana and Geeta vs. State of Haryana, sentence of appellants was suspended on the ground that the appellants remained on bail during trial; disposal of trial will take sufficient long time and there is no apprehension of absence of appellants during the pendency of the appeals and that after conviction, they have undergo imprisonment and they are in custody since 16.5.2018. But the present applicant remained in custody through out the trial of the case. In this case, present applicant persuaded the complainant to purchase plot measuring 308 sq. Yards, owned by Om Kali. Complainant was also informed that he has purchased the said plot and sale deed will be directly executed in her favour. Sale consideration of Rs.21,67,800/- was paid to the appellant and as per prosecution case, Geeta impersonated original owner Om Kali, whereas, present applicant, attested the sale deed and Galib Hassan identified Geeta. As per investigation conducted by the police, entire sale consideration was misappropriated by accused Davinder Sharma and only Rs.4,000/- was paid to accused Geeta. Whereas, accused

Galib was only identifier. During the trial of the case, the applicant moved various petitions for bail, but those petitions were dismissed repeatedly by the learned trial court, this court and Hon'ble Punjab & Haryana High Court. During the course of arguments in a petition before Hon'ble High Court, wife of petitioner also submitted that she had sold her other property to settle the dispute of petitioner and she will settle the matter with the complainant, if given benefit of interim bail of some period. The petitioner was release on bail for two weeks, but despite that he did not settle the matter and did not return the amount. In view of this, the petitioner, who, during the course of trial, was not released and after conviction, is not entlted for bail. Further, sufficient time has not passed for releasing the applicant/suspending the sentence. Therefore, the application for suspension of sentence is dismissed.”

Keeping in view the facts and circumstances of the case, the sentence of the petitioner shall remain suspended during the pendency of appeal, pending before the first appellate court. He is admitted to bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned appellate court/Duty Magistrate, subject to the following conditions:-

- (i) That the petitioner will not leave the country without the prior permission of this Court;
- (ii) That he will maintain peace and be of good behaviour.

The instant revision petition stands allowed accordingly.

10.10.2018
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No