

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 619 of 2019**

- Dharmjeet Singh @ Musau S/o Late Ishwar Dev Singh Aged About 40 Years Caste Rajput, R/o Pachpadwa, District Gadhwa, (Jharkhand) At Present Address Pankha Dafai, Haldibadi, Chirmiri, District Koriya Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Chirmiri , District Koriya Chhattisgarh

---- Respondent

For Petitioner : Shri N.L. Soni, Advocate

For Respondent/State : Shri R.K. Bhagat, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/03/2019**

1. Heard.
2. The present petition is against the order dated 06.02.2019 passed in criminal appeal No.13/2019 by the First Additional Sessions Judge, Manendragarh, District Koriya (C.G.), whereby an application for suspension of sentence has been rejected on the ground that the offence for which the petitioner has been convicted is serious in nature.
3. Perusal of the order dated 06.02.2019 would show that the petitioner after trial in a criminal case bearing No.51/18 has been convicted on 23.01.2019 under Sections 420, 467, 468, 471 read with Section 34 IPC and Section 506-B IPC and has been sentenced to undergo R.I. for 3 years with fine of Rs.100/- and in

absence of payment of fine amount, 15 days additional S.I. was also ordered. Along with the petitioner another accused was there and she was also convicted. After conviction both the appellants filed the appeal and the appellate court suspended the sentence of one of the accused, however, refused to suspend the sentence of the present petitioner on the ground that the offence is serious in nature.

4. Learned counsel for the petitioner would submit that the hearing of the appeal may take some time and ultimately if the appellant is acquitted then in such case the rejection of the application for suspension of sentence and grant of bail will seriously prejudice his right as there is chance that he may be acquitted.
5. After going through the order that the sentence of the co-accused has been suspended and the application for suspension of jail sentence for the present petitioner has been refused only on the ground that offence is serious in nature. At this stage, while deciding the application for suspension of sentence and grant of bail, taking into the nature of allegation, in the opinion of this Court, the appellate Court has fell into error in rejecting the application for suspension of sentence and grant of bail as the conviction and sentence which are on the facts are still to be adjudicated by the First Additional Sessions Judge, Manendragarh, District Koriya (C.G.). Admittedly, it is obvious that the appeal cannot be heard on merits simultaneously along with the application for suspension of sentence. In this case till the appeal is pending, the appellant is entitled for suspension of sentence in the facts of this case. Accordingly, the petition is allowed and the jail sentence of the appellant shall be suspended till

the appeal preferred bearing No.13/19 is finally decided. It is therefore, directed that on furnishing bail bond in sum of Rs.25000/- with one surety in the like sum before the concerned trial Court the substantive jail sentence of the appellant granted by the JMFC shall remain suspended and he shall be released on bail. The appellant shall be obliged to attend the date of hearing if not exempted by the First Additional Sessions Judge, Manendragarh.

6. Accordingly, the petition stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu