

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.1256 of 2019

1. Kushal Ram Nandeshwar, S/o Punaram Nandeshwar, 51 years, R/o Village Maditarai, P.S. Dongargarh, Distt. Rajnandgaon (C.G.)
2. Kartik Ram, S/o Nirbhay Ram, 36 years, R/o Village Maditarai, P.S. Dongargarh, Distt. Rajnandgaon (C.G.)
3. Amar Lal, S/o Laduram, 36 years, R/o Village Damabanjari, P.S. Chhuriya, Distt. Rajnandgaon (C.G.)

(In Custody)
(Appellants)
---- Petitioners

Versus

State of C.G., Through District Magistrate, Rajnandgaon

(Non-applicant)
---- Respondent

For Petitioners: Mr. Keshav Dewangan, Advocate.

For Respondent / State: -

Mr. Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

17/05/2019

1. Heard on the question of admission.
2. The petitioners were convicted by the jurisdictional criminal Court by judgment dated 22-4-2019 for offence under Sections 419 read with Section 34, 420 read with Section 34, 467 read with Section 34, 468 read with Section 34, 471 read with Section 34, 120B and 380 of the IPC against which they have preferred appeal under Section 374 of the CrPC and in the pending appeal, they preferred an application under Section 389 of the CrPC which has been rejected by the impugned order against which this petition under Section 482 of the CrPC has been preferred.

3. Admit.
4. Issue notice to the State/respondent. Mr. Chandresh Shrivastava, learned State counsel, accepts notice.
5. With the consent of parties, the matter is heard finally.
6. Also heard on merits.
7. Learned counsel for the petitioners submits that petitioner No.1 is in custody since 9-12-2017 and petitioners No.2 & 3 are in custody since 20-12-2017 and the maximum sentence of imprisonment imposed upon them is three years and thus, they had already completed more than half of the sentence.
8. Learned State counsel would oppose the petition.
9. Taking into consideration the fact that maximum sentence awarded to the petitioners is three years and they are in jail for more than 1 year 5 months being short term sentence and considering the decision of the Supreme Court in the matter of Bhim Singh v. Union of India and others¹ subsequently followed in the matter of Hussain and others v. Union of India (UOI) and others², it would be expedient to set aside the impugned order and release the petitioners on bail during the pendency of appeal.
10. It is directed that the substantive jail sentences imposed upon the petitioners herein shall remain suspended during the pendency of the appeal and they shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the appellate Court for their appearance before the said Court on 17-9-2019 and thereafter on all such other subsequent dates as are given to them by the said Court, till the

1 (2015) 13 SCC 605

2 (2017) 5 SCC 702

disposal of the appeal.

11. It is made clear that fine sentence is not being suspended. This Court has not expressed any opinion on the merits of the matter.

12. The petition is allowed to the extent indicated herein-above.

13. Certified copy.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma