

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 932 of 2019**

- Hemant Agrawal S/o Kailash Chand Agrawal Aged About 30 Years R/o Manipur, Bilaspur Chowk, Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant**Versus**

1. Mahaveer Prasad Agrawal S/o Late Mange Ram Agrawal Aged About 73 Years R/o Maa Mahamaya Mobile Centre, Infront Of Jayka Restorant, Gali No.2, Gandhinagar, Ambikapur, P.S. Gandhi Nagar, Tahsil Ambikapur, District Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. State Of Chhattisgarh Through District Magistrate, Ambikapur, District Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

----Respondents

For Applicant	: Smt. Hamida Siddique, Advocate
For Respondent No.2	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey**Order On Board****01.8.2019**

1. Heard on admission.
2. This revision is preferred by the applicant against the order dated 26.7.2019, passed by the First Additional Sessions Judge, Ambikapur, District Surguja (CG) in Criminal Appeal No.88/2019, whereby the application filed by the applicant under Section 389 (4) Cr.P.C. has been dismissed.
3. The applicant has filed I.A.No.01/2019 for grant of stay of conviction.

4. The applicant has been convicted under Section 294 IPC and sentenced to undergo S.I. for 3 months and fine of Rs.500/- with default stipulation vide judgment dated 24.6.2019 passed in Complaint Case No. 550/2012 by the Judicial Magistrate First Class, Ambikapur, District Surguja. The sentence imposed on the applicant has been suspended vide order dated 1.7.2019 passed in Cr. Appeal No.88/2019 by the Additional Sessions Judge, Ambikapur, District Surguja. Against the judgment dated 24.06.2019, the applicant filed an appeal before the learned Sessions Court. His appeal has been admitted for consideration and, in the meanwhile, the department of the applicant issued show cause notice for his termination from service. The applicant filed an application under Section 389 Cr.P.C. before the learned Appellate Court for staying his conviction, but the learned Appellate Court, vide order dated 26.07.2019 dismissed his application. Hence, this revision.
5. Learned counsel for the applicant submits that the applicant is Junior Telecom Officer in Bharat Sanchar Nigam Limited, Chirmiri, District Koriya (CG). She further submits that the appeal of the applicant is still pending consideration but his department, after putting him under suspension, issue a show cause notice dated 19.7.2019 (Annexure A/8) to him as to why the penalty of dismissal from service should not be imposed upon him, which is unfair. Since, the appeal of applicant is still pending for consideration, therefore, conviction of the applicant may be suspended till final disposal of the appeal. In support of her contention, she placed reliance on the decision of Hon'ble Apex

Court in the matter of **Navjot Singh Sidhu V. State of Punjab & Anr.**, reported in **2007 AIR SCW 787**.

6. Learned counsel for the State opposes the prayer of applicant.
7. Heard learned counsel for the parties and perused the order of the court below as also Annexure A/8.
8. Taking into consideration the facts and circumstances of the case, in particular that the applicant is Govt. servant, his appeal is still pending for consideration and in view of the judgment of the Hon'ble Apex Court in the matter of **Navjot Singh Sidhu** (supra), the application moved by the applicant deserves to be allowed.
9. Accordingly, I.A.No.01/2019 and revision is allowed. The order dated 26.7.2019 is set aside and the order of conviction shall remain suspended till the final judgment of the appellate Court.
10. Thus, the revision is allowed.

Sd/-

(Rajani Dubey)
JUDGE