

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

232

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IN VIRTUAL COURT

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**CRWP No. 5313 of 2020
Date of decision : 13.8.2020**

Lt. Col. Chanchal Kumar Singh

.....Petitioner

Vs.

Union of India and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Arun Singla, Advocate, for the petitioner

Mr. S.P. Jain, Additional Solicitor General of India with
Ms. Sonia Sharma, Central Government Counsel for UOI

Rajbir Sehrawat, J. (Oral)

This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking issuance of a writ of certiorari quashing the order dated 24.9.2019 (Annexure P-2), passed by the Armed Forces Tribunal, Regional Bench, Chandigarh at Chndimandir (for short 'the AFT'), whereby; the application for suspension of sentence of the petitioner has been dismissed.

Learned Senior counsel appearing on behalf of the UOI does not dispute the ratio of the law laid down by the Hon'ble Supreme Court in **'Balkrishna Ram v. Union of India and another**, Civil Appeal No. 131/2020, decided on 9.1.2020, to the effect that the High Court can exercise its powers under writ jurisdiction even to suspend the sentence.

The counsel for the petitioner has pointed out that the AFT, Chandigarh is not functioning for the past long time. Therefore, the appeal filed by the petitioner is not being taken up for final decision. In the meantime,

the petitioner has already completed 4 years, 5 months and 27 days of sentence; out of total sentence of 5 years. Hence, the petitioner deserves to be released on bail by suspending his sentence.

On the other hand, the counsel for Union of India has submitted that even if the AFT, Chandigarh is not functioning, the AFT at Delhi can be approached by the petitioner for decision of the appeal filed by him. However, it is not disputed by the counsel for the UOI that the petitioner has already undergone 4 years, 5 months and 27 days of sentence out of total sentence of 5 years.

In view of the custody period, this Court finds it appropriate to exercise its writ jurisdiction to suspend the sentence imposed upon the petitioner. Accordingly, the present petition is allowed. The sentence imposed upon the petitioner is ordered to be suspended. The petitioner is ordered to be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the Registrar, Armed Forces Tribunal, Regional Bench, Chandigarh at Chandimandir.

(RAJBIR SEHRAWAT)
JUDGE

13.8.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No