

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-506-2019

DATE OF DECISION: MARCH 12, 2020

RAVI NATH SINGH

...PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SANDEEP BANSAL, ADVOCATE
FOR THE PETITIONER.

MS. SHARMILA SHARMA, SR. PANEL COUNSEL
FOR THE RESPONDENT-UI.

MANOJ BAJAJ, J.(ORAL)

This petition has been filed under Article 226 for quashing the order dated 16.5.2019 (Annexure P-2) passed by the Armed Forces Tribunal, Chandigarh Bench, Chandigarh, whereby the application of the petitioner for suspension of sentence during the pendency of the appeal was dismissed.

Notice of motion was issued on 19.8.2019 and on the said date, the following order was passed:-

“Learned counsel for the petitioner contends that on the date fixed for final disposal of the appeal, the matter was not taken up and was adjourned to 13.11.2019. It is pointed out that the convict has already undergone a period of 02 years, 05 months and 01 day.

Notice of motion for 26.08.2019.

At the asking of the Court, Ms. Sharmila Sharma, Senior Panel

Counsel, Union of India accepts notice on behalf of the respondents. A complete copy of the paper book has been furnished to the learned counsel, in the Court.”

During the course of hearing on one of the previous dates, learned counsel appearing on behalf of Union of India had raised objection regarding the maintainability of the petition in view of Section 30, The Armed Forces Tribunal Act, 2007 and contended that the remedy, if any, lies before the Hon'ble Supreme Court.

Today, learned counsel for the petitioner has placed reliance upon a judgement in **Balkrishna Ram vs. Union of India & Anr.**, Civil Appeal No.131/2020 decided on 9.1.2020, wherein it has been held that the writ jurisdiction of the High Court is unfettered and the same can be exercised for suspending the sentence as well. He contends that the turn of the appeal is not coming for final hearing and the petitioner who is serving his sentence has already undergone a period of 3 years pursuant to his conviction and order of sentence of 5 years passed by the Armed Forces Tribunal, Regional Bench, Chandigarh. He, therefore, submits that during the pendency of the appeal, the sentence imposed by the trial Court may be suspended, otherwise the appeal may be rendered infructuous.

Ms. Sharmila Sharma, learned Sr. Panel Counsel for the respondents-Union of India does not dispute the ratio laid down by the Hon'ble Supreme Court, relied upon by the learned counsel for the petitioner. She also does not dispute this fact that a period of more than 3 years has already been undergone by the convict.

Considering the above, the sentence awarded to the petitioner is suspended during the pendency of the appeal, subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the Registrar, Armed Forces Tribunal, Regional Bench, Chandigarh at Chandimandir Cantt.

Criminal Writ Petition is allowed.

March 12, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No