HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Misc II Suspension Of Sentence Application (Appeal) No. 856/2020

Sahil S/o Sh. Pushakraj, Aged About 24 Years, By Caste Arora, R/o Khuban Ps- Bahabwala, District Hissar (Haryana). (At Present Lodged In Central Jail Bikaner).

----Petitioner

Versus

State Of Rajasthan-State, Through P.P

----Respondent

For Petitioner(s) : Mr. R.S. Gill (through V.C.)
For Respondent(s) : Mr. Farzand Ali, AAG-cum-GA
Mr. S.K. Bhati, PP

HON'BLE MR. JUSTICE SANDEEP MEHTA

Judgment / Order

09/12/2020

The appellant-applicant Sahil S/o Pushakraj has been convicted and sentenced by the learned Additional Sessions Judge, Sangaria vide judgment dated 20.09.2016 passed in Sessions Case No.12/2016 (CIS No.12/2016) in the following manner :-

Offence for which convicted	**Sentence awarded**
Section 395 IPC	Ten years' rigorous imprisonment alongwith a fine of Rs.10,000/- and in default of payment of fine, further to undergo one year's simple imprisonment.
Section 397 IPC	Ten years' rigorous imprisonment alongwith a fine of Rs.10,000/- and in default of payment of fine, further to undergo one year's simple imprisonment.

He has preferred the instant application under Section 389 CrPC seeking suspension of sentences awarded to him by the trial court.

Learned Public Prosecutor has chosen not to file reply to the application for suspension of sentence and proposed to argue the matter orally.

Heard learned counsel for the parties and perused the material available on record.

A perusal of the record indicates that two cases were registered against the appellant on the same day one being (Sessions Case No.07/2016) for the offences under Sections 148, 307/149 and 353/149 IPC and under Sections 325 & 5/27 of the Arms Act and other being the present one. The appellant has suffered a total custodial period of about five years in both these cases. The appeal preferred by the appellant has not been taken up for hearing even once during this period. The sentences awarded to the appellant in Sessions Case No.07/2016 has already been suspended by this Court by order dated 21.11.2020.

In this background and considering the over all facts and circumstances of the case, this court is of the opinion that this is a fit case to enlarge the appellant-applicant on bail by suspending his sentences during the pendency of the appeal.

Accordingly, the instant application for suspension of sentences filed under Section 389 Cr.P.C. is allowed and it is ordered that the sentences passed by the learned **Additional Sessions Judge, Sangaria, District Hanumangarh** vide judgment dated **20.09.2016** in Sessions Case No.**12/2016** against the appellant-applicant **Sahil S/o Pushakraj** shall remain suspended till final disposal of the aforesaid appeal and he shall be

released on bail, provided he executes a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- (out of which, one shall be local surety) each to the satisfaction of the learned trial Judge for his appearance in this court on 11.01.2021 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That he will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant changes the place of residence, he will give in writing his changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicant in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case the said accused applicant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

(SANDEEP MEHTA),J

46-Sudhir Asopa/-