

25.08.21
(S.R.)
Sl.11
Ct.30

CRA No.347 of 2019
with
CRAN No.2 of 2020 (Old CRAN No.388 of 2020)
(Via video conference)

In re: An application under Section 389(1) of the Code of Criminal Procedure;

And

In re: Jahanara @ Jahanur Bibi

... appellant/petitioner.

Mr. Swapan Kumar Mallick
Mr. Ramdulal Manna
Mr. Sudeshna Das
Mr. Sayan Mukherjee

... for the appellant/petitioner.

Mr. Rana Mukherjee, APP
Mr. Santanu Chatterjee

... for the State.

This is an application for an order of suspension of sentence and for grant of bail pending appeal against an order of conviction and sentence. The petitioner/appellant has been convicted of offence under section 302 of the Indian Penal Code.

Mr. Mallick, learned advocate appearing for the appellant/petitioner submits that it would be explicit from the judgment impugned in the present appeal that the appellant was on bail during trial. The appellant has not misused such liberty. There is also no possibility towards early disposal of the present appeal and in view thereof, the appellant's sentence may be suspended and he may be enlarged on bail on any stringent condition.

He submits that entire case is based upon circumstantial evidence and the guilt of the appellant had not been established by the prosecution beyond reasonable doubt. In support of such contention, he has placed reliance upon the deposition of PW 7.

He argues that the material evidence on record *prima facie* does not disclose any motive. Such absence of motive weighs in favour of the appellant. In the said conspectus, it cannot be said that the appellant

has no chance of success in the present appeal.

Mr. Mukherjee, learned advocate appearing for the State opposes the appellant's prayer and submits that when the learned trial court has arrived at a finding as regards the guilt of the appellant on the basis of evidence on record, a different view cannot be taken at this stage on the basis of the self-same evidence.

He further submits that the appellant's prayer for suspension of sentence was also rejected by a co-ordinate bench of this Court earlier.

We have assessed the quality of evidence on record and have perused the earlier order dated 30th September, 2019 by which the appellant's prayer for suspension of sentence was rejected. *Prima facie*, the judgment impugned does not suffer from any patent infirmity. We also do not find any substantial change in the circumstances subsequent to rejection of the appellant's prayer for suspension of sentence on 30th September, 2019. Having regard to the severity of the offence and the strength of the prosecution case, we are not inclined to exercise any discretion in favour of the appellant.

The application being CRAN No.2 of 2020 (Old CRAN No.388 of 2020) is, accordingly, dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Subhasis Dasgupta, J.)

(Tapabrata Chakraborty, J.)