

22.11.2021

Sl. No. 01
Mithun/
Ct.No.42.

**IA No: CRAN/1/2018(Old No:CRAN/3479/2018),
In
CRA/343/2018**

(Via Video Conference)

In re: An application for suspension of sentence in connection with the appeal under Section 389(1) of the Code of Criminal Procedure, 1973 in connection with judgment and order dated 10.05.2018 and 11.05.2018 passed by learned Additional Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur in connection with Sessions Case No.22/11 (corresponding to Sessions Trial No.19/08 of 2013) thereby convicting the appellant for the commission of offences punishable under Sections 14A(b) of Foreigners Act.

In the matter of: **Abdul Latib**

...Appellant.

Ms. Amrin Khatoon, Adv.

...for the appellant.

Ms. Anasuya Sinha, Adv.

...for the State.

The instant appeal is directed against the judgment and order of conviction and sentence passed against the appellant by the learned Additional Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur convicting the appellant and sentencing him to suffer simple imprisonment for three (3) years and six (6) months and fine of Rs.10,000/-, in default, to suffer simple imprisonment for a term of six (6) months for the charge under Section 14A(b) of the Foreigners Act.

On the previous occasion it is pleaded by the learned Advocate for the appellant that the appellant has already

suffered sentence at Behrampur Central Correctional Home. A report was called for from the Correctional Home Authority to ascertain its veracity. Such report has already been received from the Superintendent, Behrampur Central Correctional Home and placed before this Court by the Assistant Registrar, Criminal Section. It appears from the said report dated 21st September, 2021 that the appellant has already served out the sentence of simple imprisonment and he is in custody for three(3) years seven(7) months and fifteen(15) days on the date of issue of the letter, i.e. 21st September, 2021. As on this day, the appellant remains in custody for 3 years 9 months approximately. Therefore, substantive sentence of imprisonment has already been served out by the appellant.

It is submitted by Ms. Amrin Khatoon, learned Advocate for the appellant on instruction that the appellant is ready and willing to pay the fine amount and he does not want to proceed with the instant appeal.

In view of such circumstances, as the appellant does not want to proceed with the instant appeal, the same be treated as dismissed. The lower court record be sent down to the trial Court forthwith to enable the appellant to make payment of fine amount.

The learned Trial Judge shall consider as to whether entire period of substantive imprisonment is served out by the appellant and the fine amount is paid. On consideration thereof, the appellant be released from the custody.

On receipt of the lower court record, the learned Trial Judge shall also take necessary step for pushing him back to his own Country.

(Bibek Chaudhuri, J.)