

13.05.2024.
Sl 126
Court no.237
BP

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

CRA (SB) 16 of 2024

Aminur Rahaman
versus
The State of West Bengal

Mr. Satadru Lahiri
Mr. Safdar Azam
Mr. Syed Wasim Faruque
Mr. Jyotirmoy Talukdar
.... for the appellant.

Mr. Rana Mukherjee
Mr. Bitoshok Banerjee
Ms. Manasi Roy
.... for the State.

1. Affidavit of service filed in Court today is kept with the record.
2. Learned counsel appearing on behalf of the appellant is present. None appears on behalf of the State though appeal was admitted and issuance of usual notice was ordered by this Court.
3. Learned Additional Public Prosecutor Mr. Rana Mukherjee, who usually appears in this Court on behalf of the State, is requested to represent the State in this matter. The appropriate authority is directed to regularize his appointment.
4. After appointment of Mr. Mukherjee, Mr. Bitoshok Banerjee along with Ms. Manasi Roy appeared as they were engaged by the Public Prosecutor of this

Court. In this situation the appointment of Mr. Mukherjee is recalled.

5. The appeal is taken up for hearing. The appeal was filed assailing the order dated 30th November, 2023 passed by the learned Additional Sessions Judge, Fast track Court-I, Basirhat, North 24 Parganas in connection with ST No. -20(11) of 2023 wherein learned Judge found the appellant guilty of committing offence punishable under Section 14-A(b) of the Foreigners Act read with Section 12 of the Passports Act and sentenced him to suffer simple imprisonment for a term of two years and six months along with fine of Rs. 20,000/- in default of payment of fine imprisonment for a term of six months under Section 14-A(b) of the Foreigners Act, 1946. He was also sentenced to suffer imprisonment for a term of one year and also with fine of Rs. 5,000/- in default of payment of fine further simple imprisonment for a term of three months for the offence punishable under Section 12 of the Passports Act, 1967. Both the offences were ordered to run concurrently.
6. Learned Judge framed charge against the appellant under Section 14-A(b) of the Foreigners Act read with Section 12 of the Passports Act against the appellant and contents of the charge was read over

and explained to the appellant who pleaded guilty. Accordingly learned Judge imposed the sentence mentioned hereinabove.

7. Learned counsel appearing on behalf of the appellant has submitted that the appellant was found guilty and convicted under Section 14-A(b) of the Foreigners Act for which minimum punishment is prescribed for a term of two years. Accordingly Mr. Lahiri appearing on behalf of the appellant has made a prayer for reduction of the sentence of two years and six months to minimum punishment for a term of two years prescribed in Section 14-A(b) of the Foreigners Act.
8. Mr. Mukherjee, learned counsel appearing on behalf of the State left the matter to the discretion of this court in terms of the nature of offence.
9. Given facts and circumstances and particularly the imposition of sentence on plea of guilty, I am of the opinion that the appellant ought to have been imposed a minimum sentence prescribed under Section 14-A(b) of the Foreigners Act as he pleaded guilty after hearing the contents of the charge framed against him by the learned Judge.
10. In the aforesaid view of the matter, I modify the sentence imposed on the appellant for the offence

under Section 14-A(b) of the Foreigners Act as follows:

11. The punishment for a term of imprisonment of two years and six months be substituted by two years only. Other part of the sentence will remain unchanged.
12. Concerned authority is directed to repatriate the appellant to his native land i.e. Bangladesh after observing all formalities immediately after completion of sentence and payment of fine.
13. With the aforesaid observations, the appeal stands disposed of.
14. All parties shall act on the server copy of this order duly downloaded from the official web-site of this Court.
15. Criminal Section is directed to supply a photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Bibhas Ranjan De, J.)