

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 664 of 2018

Sudhir Mahto Appellant
Versus
The State of Jharkhand Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant : Mr. Shailendra Kumar Singh, Advocate
For the State : Mr. Azeemuddin, A.P.P.

08/11.09.2020 The present criminal appeal is taken up today through Video conferencing.

I.A. No. 3782 of 2020

The present interlocutory application has been filed on behalf of the appellant under Section 389(1) Cr.P.C. for suspension of sentence awarded to him vide order dated 15.03.2018 passed by the learned trial court and his release on bail during pendency of the present appeal.

The learned counsel for the appellant submits that earlier similar applications preferred by the appellant were rejected twice by this Court vide orders dated 04.04.2019 and 27.09.2019 passed in I.A. No. 11115 of 2018 and I.A. No. 8504 of 2019 respectively. It is further submitted that this Court while rejecting the appellant's application under Section 389(1) Cr.P.C. vide order dated 27.09.2019 passed in I.A. No. 8504 of 2019, had given liberty to prefer fresh application after completing half of the sentence. It has been stated in paragraph-10 of the present interlocutory application that the appellant has been in judicial custody since 20.10.2016 and as such he has completed 3 years 8 months sentence out of the sentence for a period of 7 years awarded to him. It is also submitted that the appellant has good case in the present criminal appeal as the learned trial court has not appreciated the evidence available on record in true perspective and has wrongly convicted the appellant under Section 376 I.P.C.

The learned A.P.P. appearing on behalf of the State of Jharkhand though opposes the appellant's prayer for suspension of sentence under Section 389(1) Cr.P.C. on merit, yet he accepts the fact that the appellant has already undergone more than half of the

sentence awarded to him by the learned trial court.

Having heard the learned counsel for the parties, on perusal of the LCR and keeping in view that the appellant has already undergone more than half of the sentence awarded by the learned trial court, I am inclined to suspend the sentence awarded to the appellant by the learned trial court vide order dated 15.03.2018.

Accordingly, the appellant above named is directed to be released on bail, during the pendency of the present appeal, on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-XV, Dhanbad, in connection with S.T. No. 42 of 2017.

I.A. No. 3782 of 2020 stands disposed of.

(Rajesh Shankar, J.)

Manish