

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J) No. 1643 of 2018

Vicky Burman

..... Appellant

Versus

The State of Jharkhand

..... Respondent

CORAM

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant:

Mr. Vikash Kumar

For the State:

Mr. Shekhar Sinha, P.P

07/26.03.2021

I.A. No. 1139/2021

The present interlocutory application has been filed on behalf of the appellant under Section 389(1) of the Cr.P.C for suspension of sentence awarded to the appellant by the learned Trial Court during the pendency of the present appeal.

Learned counsel for the appellant submits that earlier the appellant had preferred similar application being I.A No. 11390/2018 which was rejected by this Court vide order dated 28.03.2019. By way of the present interlocutory application, the appellant has renewed his prayer for suspension of sentence primarily for the reason that he has already remained in judicial custody for about two years and ten months i.e. more than half of the sentence of five years awarded to him by the learned Trial Court for the offence under Section 10 of the POCSO Act. The appellant otherwise has a good case in the present appeal. It is also submitted that the learned Trial Court has erroneously convicted the appellant under Section 354 IPC and Section 10 of the POCSO Act without properly appreciating the evidence available on record. At least considering the length of judicial custody of the appellant, the sentence awarded to the appellant may be suspended during the pendency of the present appeal.

Mr. Shekhar Sinha, learned P.P appearing on behalf of the State of Jharkhand though opposes the appellant's prayer for suspension of sentence on merit, yet while producing a copy of the custody detail report dated 18.03.2021 prepared by the Superintendent of Loknayak Jaiprakash Narayan Central Jail, Hazaribagh, submitted that as per the said report, the appellant had remained

in judicial custody in connection with the present case for two years, nine months and twenty nine days till preparation of the said report i.e. on 18.03.2021.

Having heard learned counsel for the appellant, learned A.P.P and on perusal of the L.C.R as well as keeping in view that the appellant has already undergone more than half of the sentence awarded to him by the learned Trial Court in connection with the present case, the sentence awarded to the appellant by the learned Trial Court shall remain suspended during the pendency of the present appeal.

Accordingly, the above named appellant is directed to be released on bail, during the pendency of the present appeal, on furnishing bail-bond of Rs.25,000/- (twenty five thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I-cum-Special Judge (POCSO), Dhanbad in connection with Special POCSO Case No 90/16.

The present interlocutory application stands disposed of.

Satish/-

(RAJESH SHANKAR, J)