
(2021) 06 MP CK 0054

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 5935 Of 2020

Bajnath Patel And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 10-06-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 20(kha)

Citation : (2021) 06 MP CK 0054

Hon'ble Judges : B. K. Shrivastava, J

Bench : Single Bench

Advocate : D.N. Shukla, Pradeep Sahu

Final Decision : Allowed

Judgement

B. K. Shrivastava, J

Heard on I.A. No. 13012/2020 filed under Section 389 (1) of Cr.P.C. on behalf of appellant No.1 Bajnath Patel and Appellant No.2 Bharat Lal

Mishra.

At the beginning of the arguments, learned counsel for the appellants seeks withdrawal of the application on behalf of Bharat Lal Mishra with the

liberty to file fresh application after six months.

Therefore, permission is granted.

The application is partly dismissed in reference to appellant No.2 Bharat Lal Mishra with such liberty.

Bajnath Patel also convicted by the judgment dated 15.10.2020 passed by Special Judge, N.D.P.S. Katni in N.D.P.S. case No. 35/2018. The trial

Court convicted the appellant for the offence punishable under Section 8/20

(kha) of N.D.P.S. Act and awarded four years rigorous imprisonment with the fine of Rs.25,000/- with default stipulation.

It appears from para-80 of the judgment that the appellant Baijnath Patel remained in custody since 03.11.2018 to 01.03.2019 and thereafter from the date of judgment 15.10.2020 he is confined in custody. The substantive jail sentence of co-accused Rakesh Kumar has been suspended upon the ground that he already served the 50% of the awarded sentence. As far as Baijnath is concerned, it appears from para-72 of the judgment that he was driving the motor cycle upon which Rakesh Pandey and Bharat Lal Mishra were pillion rider. The Ganja has been seized from the possession of the Rakesh Pandey and Bharat Lal Mishra. No any seizure of Ganja has been made from the possession of Baijnath.

Therefore, looking the aforesaid special situation, the application is allowed in reference to accused Baijnath. His remaining part of substantive jail sentence will be treated as suspended subject to his furnishing a bail bond worth Rs.50,000/- (Rupees Fifty Thousand Only) and the personal bond of the same amount to the satisfaction of the trial Court.

After releasing on bail, he will appear before the Registry of this Court on 06.12.2021 and thereafter other subsequent dates as may be fixed by the Registry in this behalf.

At the time of releasing from custody, all the instructions issued by the government related to Covid-19 shall also be followed by the concerned authority.