
(2020) 06 MP CK 0053

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 17947 Of 2020

Giriraj Singh Gurjar

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 18-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 41, 173(1), 482
Indian Penal Code, 1860 — Section 34, 294, 307, 452

Citation : (2020) 06 MP CK 0053

Hon'ble Judges : G. S.Ahluwalia, J

Bench : Single Bench

Advocate : A. S. Chauhan, C.P. Singh

Final Decision : Disposed Of

Judgement

Learned counsel for the rival parties are heard.

I.A.8904/2019, second repeat application moved by appellant No.4-Munesh & I.A.No.9883/2019, first application for suspension of sentence moved by appellant No.2-Diman alias Deeman for suspension of sentence u/Sec. 389(1) Cr.P.C., are taken up and considered along with reply filed by the State to the same.

This criminal appeal assails the judgment dated 14/12/2018 passed in S.T.No.33/2016 by First additional Sessions Judge, Guna, District Guna whereby the appellants have been convicted and sentenced as under with default stipulations :-

Sections

Imprisonment

Fine

341 of IPC

1 month's R.I.

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323/34 of IPC

3 month's R.I.

Rs.500/- each with default stipulation

324/34 of IPC

3 month's R.I.

Rs.1000/- each with default stipulation

302/34 of IPC

Life imprisonment

Rs.2000/- each with default stipulation

Learned counsel for the State opposed the appeal and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

It is submitted that appellant No.2 and appellant No.4 are said to have completed about 2 years and 6 months & 1 years and 8 months of custody period respectively.

The allegation found to be proved against appellant No.2-Diman alias Deeman is that he caused axe blow on the head of the injured-Pappu who sustained incised wound but no grievous injury was caused whereas appellant No.4-Munesh was found to have caused lathi blow on the non-vital part of the body.

Appellant No.2 is said to have antecedents comprising of offences which are minor in nature and therefore, can be ignored. It is also informed that the same incident gave rise to a cross case. The incident is said to have taken place in front of house of the appellant.

Looking to the nature of allegations found proved and that none of appellants No.2 and appellant No.4 have caused the fatal blow and further looking to extraordinary situation of ongoing Covid-19 pandemic coupled with the fact that there is no likelihood of early disposal of the appeal in near future, this Court is inclined to grant bail to appellant No.2 and appellant No.4 by way of suspension of sentence.

Accordingly, without expressing any opinion on merits, I.A.No.9883/2019 & I.A.8904/2019 are allowed and it is directed that the jail sentence of appellant No.2-Diman @ Deeman & appellant No.4-Munesh will remain under suspension subject to verification that

the amount of fine has been deposited, on appellants' furnishing bail bond of

Rs.50,000/- (Rupees Fifty Thousand Only) each with one solvent surety of the like amount to the satisfaction of concerned Magistrate for his appearance before the concerned Magistrate on 25/11/2020 and on such further dates as may be fixed by him which shall be of frequency not less than once a year.

In case, appellants are found absent on any date fixed by the concerned Magistrate then the said Magistrate shall be free to issue and execute warrant of arrest for securing their presence without first referring the matter to this Court, provided the Registry of this Court is kept informed.

The learned concerned Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the appellant during period of suspension of sentence as a consequence of this order.

A copy of this order be sent to the Court concerned for information.

C.c as per rules.