

(2004) 12 RAJ CK 0012

In the Rajasthan High Court

Case No : Miscellaneous Bail Application (SOS) No. 1145/04 in Criminal Appeal No. 837/04

Gopal and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 21-12-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 149, 307

Citation : (2004) 12 RAJ CK 0012

Hon'ble Judges : Harbans Lal, J

Bench : Single Bench

Advocate : Pankaj Gupta, for the Appellant; R.P. Kuldeep, PP, for the Respondent

Final Decision : Allowed

Judgement

Harbans Lal, J.—I have heard learned counsel for applications-appellants Gopal, Mahesh and Vishambhar and learned PP for the State on this application for suspension of sentence u/s 389 Cr.P.C. and have perused the impugned judgment dated 30.7.2004 passed by the learned Additional District and Sessions Judge (Fast Track), Hindauncity, District Karoli in Sessions Case No. 118/2001 (61/92).

2. It has been contended by their learned counsel that the charge against the applicants, was for the offence u/s 307 read with Section 149 IPC alongwith other charges but they have been convicted for the substantive offence u/s 307 IPC for which there was no charge against them. In this connection, reliance has been placed on the cases of Suraj Pal Vs. The State of Uttar Pradesh, and Lakhan Mahto and Others Vs. State of Bihar, and it has been urged that in view of the aforesaid cogent legal grounds, the sentence of the applicants may be suspended.

3. Having regard to the submissions made at the bar, the fact that they were on bail during trial and there is no immediate prospect of their appeal being heard in near future, I deem it just and proper to suspend their sentence.

4. In the result, the application for suspension of sentence is allowed and it is directed that the sentence awarded to applicants Gopal S/o Hatua, Mahesh s/o Hathua and Vishambhar S/o Bharosi shall remain suspended during the pendency of their criminal appeal provided, each of them furnishes a personal bond in the sum of Rs.20,000/-together with one surety in the like amount to the satisfaction of the concerned court for there appearance before this Court on 21.1.2005 and on all dates of hearing unless otherwise directed.