

(2019) 03 RAJ CK 0070

In the Rajasthan High Court

Case No : Suspension Of Sentence (Appeal) No. 1094 Of 2018

Gurubux Singh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 06-03-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389

Citation : (2019) 03 RAJ CK 0070

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : B. Ray Bishnoj, N.S Bhati

Final Decision : Allowed

Judgement

Heard learned counsel for the appellant-applicant and learned Public Prosecutor and perused the material available on record.

By way of the instant third application for suspension of sentence under Section 389 CrPC, the appellant-applicant Gurubux Singh is seeking suspension of sentence awarded by learned Special Judge, NDPS Act Cases, Churu vide judgment dated 01.10.2015 in Sessions Case No.01/2012.

Learned Public Prosecutor has submitted a report received from the Police Station Kulgadi District Firozpur by E-mail indicating that no case has been registered against the accused-appellant Gurubux Singh at the Police Station Kulgadi. The accused-appellant Gurubux Singh has been convicted and sentenced vide judgment dated 01.10.2015 and he is in custody since 02.11.2011. He was apprehended while plying 400 Kgs. Poppy Straw in an Innova vehicle.

On perusal of the order sheets of the file of the appeal, it is apparent that the case has not been taken up for hearing till date.

In this background and considering the prolonged custody period suffered by the

appellant Gurubux Singh and keeping in view the observations made by the Hon'ble Supreme Court in the case of Thana Singh Vs. Central Bureau of Narcotics reported in (2013) 2 SCC 603, the instant 3rd application application for suspension of sentence is allowed.

Accordingly, the 3rd application for suspension of sentence filed under Section 389 Cr.P.C. is allowed and it is ordered that the sentences passed by the learned Special Judge, NDPS Act Cases, Churu vide judgment dated 01.10.2015 in Sessions Case No.01/2012 against the appellant-applicant Gurubux Singh S/o Surjeet Singh shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail, subject to the condition that he shall deposit 50% amount of the fine imposed by learned trial court and furnishes a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his appearance in this court on 09.04.2019 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That he will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant changes the place of residence, he will give in writing his changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address, they will give in writing their changed address to the trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicant in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case the said accused applicant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.