

---

**(2023) 10 MP CK 0031**

**In the Madhya Pradesh High Court**

**Case No : Criminal Appeal No. 12811 Of 2023**

Kall @ Mahendra Singh And

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

---

**Date of Decision : 09-10-2023**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 389(1), 389(3)  
Indian Penal Code, 1860 — Section 34, 325

**Citation : (2023) 10 MP CK 0031**

**Hon'ble Judges : Sanjeev S Kalgaonkar, J**

**Bench : Single Bench**

**Advocate : Naval Kishore Gupta, Narottam Sharma**

**Final Decision : Allowed/Disposed Of**

---

## **Judgement**

Sanjeev S Kalgaonkar, J

Heard on the question of admission.

Being arguable, the appeal is admitted for final hearing.

Heard on IA No. 18693/2023, first application under Section 389(1) Cr.P.C. moved on behalf of the appellants seeking suspension of sentence and grant of bail.

Appellants stands convicted under Sections 325/34 of IPC and sentenced to undergo RI for three years with fine of Rs.1000/- with default stipulations vide judgment of conviction and sentence dated 23.09.2023 passed by Ist Additional Sessions Judge, Datia District Datia in S.T. No.26 of 2022.

Learned Counsel for appellants submits that the impugned judgment passed by learned Trial Court is based on assumption, conjecture and surmises. The learned Trial Court has committed an error in convicting and sentencing the present appellants without appreciating the prosecution evidence properly. There are material contractions and omissions in the evidence of witnesses. The appellants

were on bail during trial and he did not misuse the liberty so granted to them. Fine amount has already been deposited by the appellants. The jail sentence of appellants were already suspended by learned Trial Court, under Section 389(3) of the Cr.P.C. There is no likelihood of hearing of appeal in near future. On these grounds, learned Counsel prays that execution of remaining jail sentence of appellants may be suspended and he may be enlarged on bail.

Per contra, learned Counsel for respondent State opposed the application and prayed for its rejection.

Upon hearing learned Counsel for the parties but without commenting upon rival contentions touching merits of the case, this Court is of the view that application deserves to be allowed. It is, accordingly directed that execution of remaining jail sentence of appellants shall remain suspended during pendency of this appeal and they shall be enlarged on bail subject to furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety each in the like amount to the satisfaction of Trial Court and also subject to deposit of the fine amount (if not already deposited) for their appearance before the Registry of this Court on 01.12.2023 and on further dates as may be directed by the Registry in that regard.

Accordingly, I.A. No.18693/2023 stands allowed and disposed of.

List the matter for final hearing in due course.

Certified copy as per rules.