

(2023) 11 MP CK 0059

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 14400 Of 2023

Kanta @ Kamta Prasad And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 20-11-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 34, 326

Citation : (2023) 11 MP CK 0059

Hon'ble Judges : Roopesh Chandra Varshney, J

Bench : Single Bench

Advocate : Sourabh Singh, Shailendra Mishra

Judgement

Roopesh Chandra Varshney, J

Let record of the Court below be requisitioned.

Heard on admission.

Admit.

Heard on IA No.27099 of 2023, which is the first application under Section 389(1) of the Cr.P.C. for suspension of sentence and grant of bail moved on behalf of appellants. Jail sentence of appellants have already been suspended till 21.11.2023.

Appellants stood convicted under Section 326 of the IPC and sentenced to suffer R.I. for one year with fine of Rs.1000/- (to accused Kanta @ Kamta Prasad) and Section 326 read with 34 of IPC and sentences to suffer R.I. for two years with fine of Rs.1000/- (to accused Dharmendra Kushwaha), respectively with default stipulations vide judgment of conviction and order of sentence dated 20.10.2023 passed by Additional Sessions Judge, Goharganj District -Raisen in S.T. No.145 of 2020.

Learned counsel for the appellants while seeking suspension of sentence inter

alia submitted that the trial Court without appreciating the evidence wrongly convicted the appellants for the aforesaid offences. There are several omissions and contradictions in the evidence adduced by the prosecution. It is also submitted that the appellants are already on bail till 21.11.2023. Appeal is of the year 2023 and there is no likelihood of appeal being taken up for final hearing. Under such circumstances, application of appellants for suspension of sentence and grant of bail may be considered.

P er contra, Learned Panel Lawyer for the State while opposing the prayer, supported the judgment impugned. He contends that judgment impugned is passed upon proper evaluation of evidence placed on record, so the sentence of the appellants should not be suspended.

Upon hearing learned counsel for the parties though this Court refrain from commenting upon rival contentions touching merits of the matter and the appeal is of the year 2023 and there is no likelihood early hearing of the appeal in near future, in the obtaining facts and circumstances, present appellants are held entitled for suspension of jail sentence and grant of bail.

Accordingly, IA No.27099 of 2023 stands allowed and it is directed that the jail sentence of appellants shall remained suspended and they be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with one solvent surety in the like amount to the satisfaction of the trial Court subject to verification of factum regarding deposit of fine amount. Appellants are directed to appear before the trial Court first on 20/12/2023 and on other subsequent dates as may be fixed in this behalf.

Accordingly, I.A.No. 27099 of 2023 stands allowed and disposed of.

List for final hearing in due course.

Certified copy as per rules.