
(2019) 03 RAJ CK 0073

In the Rajasthan High Court

Case No : Suspension Of Sentence (Appeal) No. 1406 Of 2018

Kishan Lal

APPELLANT

Vs

Uoi Through Ncb

RESPONDENT

Date of Decision : 06-03-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389

Citation : (2019) 03 RAJ CK 0073

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : B.R. Godara, M.S. Pareek

Final Decision : Disposed Off

Judgement

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

By way of the instant second application for suspension of sentence under Section 389 CrPC, the appellant-applicant Kishan Lal seeks suspension of sentences awarded to him by learned Special Judge, NDPS Act Cases, Jodhpur vide judgment dated 23.08.2016 in Sessions Case No.41/2012.

Learned Public Prosecutor has submitted the reply as well the antecedent report indicating that the accused was found involved in another case under the NDPS Act arising from FIR No.41/2012 Police Station Sedwa District Barmer. However, today, learned Shri Godara has placed on record a copy of the judgment dated 11.08.2006 passed by the learned Special Judge, NDPS Act Cases, Jodhpur as per which, the accused-applicant has been acquitted in the said case. In the case at hand, the appellant is in custody from 26.11.2011. The maximum sentence awarded to the appellant by the trial court is of 15 years. Sentences awarded to the similarly situated co-accused Hari Ram has been suspended by the Coordinate Bench vide order dated 04.12.2018.

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 this Court is inclined to accept the instant second application for suspension of sentence on parity as well as for the reason that the appeal has not been taken up for hearing.

Accordingly, the 2nd 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, Jodhpur vide judgment dated 23.08.2016 in Sessions Case No.41/2012 against the appellant-applicant Kishan Lal S/o Sona Ram shall remain suspended till final disposal of the 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 upon furnishing 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.