

(2023) 07 MP CK 0139

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 9717 Of 2023

Manoj @ Kallu And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 31-07-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1), 389(3)
Indian Penal Code, 1860 — Section 34, 323, 325

Citation : (2023) 07 MP CK 0139

Hon'ble Judges : Sanjeev S Kalgaonkar, J

Bench : Single Bench

Advocate : R.S. Yadav, Pramod Pachor

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.

Also heard on IA No. 14071/2023, first application under Section 389(1) Cr. P.C. moved on behalf of the appellants seeking suspension of sentence and grant of bail.

Appellant No.1 stands convicted under Sections 325 and 323/34 of the IPC and appellant No.2 and 3 stand convicted under Sections 325/34 and 323/34 of the IPC and sentenced to undergo one year's simple imprisonment with fine of Rs. 1000/- respectively with default stipulation vide judgment of conviction and sentence dated 21/07/2023 passed by Sessions Judge, Vidisha (M.P.) in Sessions Trial No. 19/2022.

Learned Counsel for appellants submits that 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 they did not misuse the liberty so granted to them. Fine amount has already been deposited by the appellants. The jail sentences of appellants were 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 they 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) each 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 his appearance before the Registry of this Court on 25.09.2023 and on further dates as may be directed by the Registry in that regard.

Accordingly, I.A. No.14071/2023 stands allowed and disposed of. Call for the record of the Court below and list thereafter for final hearing in due course.

Certified copy as per rules.