
(2020) 03 MP CK 0149

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 741 Of 2020???CRA-741-2020

Rajendra Chaturvedi

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 16-03-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 120, 420
Prevention Of Corruption Act, 1988 — Section 13(1)(d), 13(2)

Citation : (2020) 03 MP CK 0149

Hon'ble Judges : Rajeev Kumar Dubey, J

Bench : Single Bench

Advocate : Siddharth Datt, H.S. Chhabra

Final Decision : Allowed

Judgement

Heard on the question of admission.

Appeal seems to be arguable, hence it is admitted for final hearing. Also heard on I.A.No.1461/2020, which is an application under Section 389(1) of Cr.P.C. for suspension of the custodial sentence passed against appellant Rajendra Chaturvedi.

This appeal has been preferred against the judgment dated 16.01.2020 passed by Special Judge, (Prevention of Corruption) Act, Bhopal in Special Case No.04/2012, whereby learned Special Judge found the appellant guilty for the offence punishable under Section 420 (on seven counts) of IPC and sentenced him to undergo R.I. for five years (on seven counts) and fine of Rs.50,000/- (on seven counts) and Section 120 (on seven counts) of IPC and sentenced him to undergo R.I. for one year (on seven counts) and fine of Rs.25,000/- (on seven counts) and Section 13(1)(d) r/w 13(2) (on seven counts) of the Prevention of Corruption Act and sentenced him to undergo R.I. for five years (on seven counts) with fine of Rs.50,000/- (on seven counts) with default clause.

Learned counsel for the appellant submitted that learned trial Court without appreciating the evidence properly, wrongly convicted the appellant for the aforesaid offences. There are several omissions and contradictions in the evidence adduced by the prosecution. Appellant is in custody since the date of his judgment i.e. 16.01.2020. Hence prayed for suspension of the jail sentence and release of the appellant on bail since the hearing of this appeal will take time.

On the other hand, learned counsel for the respondent opposed the prayer and submitted that the guilt of the appellant was proved beyond reasonable doubt, therefore, learned trial Court has rightly convicted and sentenced the appellant.

This court has considered the respective submissions made by the parties and perused the impugned judgment passed by the trial court. The maximum sentence of imprisonment awarded to the appellant is only 5 years. Hon'ble Supreme Court in the case of Bhagwan Rama Shinde Gosai Vs. State of Gujrat (1999) 4 SCC 421 has held that when a person is convicted and sentenced to a short term imprisonment, the normal rule is that when his appeal is pending, the sentence should be suspended by enlarging appellant on bail and rejection can only be by way of exception. Apex Court in the case of C. Sareen v. CBI, Chandigarh : (2001) 6 SCC 584 held "No doubt when the appellate court admits the appeal filed in challenge of the conviction and sentence for the offence under the PC Act, the superior court should normally suspend the sentence of imprisonment until disposal of the appeal, because refusal thereof would render the very appeal otiose unless such appeal could be heard soon after the filing of the appeal. Apex Court in the case of N. Ramamurthy Vs. State of Central Bureau Of Investigation, A.C.B., Bengaluru, 2019 Cri.L.J. 2929, also held that in cases where an appeal could not be heard soon after the filing of the appeal, the superior Court should normally suspend the sentence of imprisonment until disposal of the appeal. So looking to the facts and circumstances of the case, the term of imprisonment awarded, the conduct of appellant when on bail during the trial, and the fact that appellant is in custody since 16.01.2020 and according to listing policy the hearing of this appeal is likely to take a long time, the application is allowed and it is directed that the execution of the jail sentence alone passed against the appellant shall remain suspended during the pendency of this appeal and he be released on bail upon furnishing personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one surety in like amount to the satisfaction of the trial Court for his appearance before the Registry of this Court on 16.06.2020 and on such further dates as may be fixed in this behalf by the Registry during the pendency of this appeal.

List the matter for final hearing in due course.

C.C. on payment of usual charges.