
(2016) 05 P&H CK 0224

In the Punjab And Haryana At Chandigarh

Case No : CRM 36534 of 2015 in Crl. Appeal D-1649-DB of 2015

Rajnish

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 389
Penal Code, 1860 (IPC) — Section 307

Citation : (2016) 3 LawHerald 2160 : (2016) 4 RCRCriminal 725

Hon'ble Judges : Mr. T.P.S. Mann and Mr. Ramendra Jain, JJ.

Bench : Division Bench

Advocate : Mr. Lokesh K. Malik, Advocate, for the Appellant; Mr. Kapil Aggarwal, Additional A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

1. Prayer made in the application filed by applicant Rajnish is for suspension of his sentence of imprisonment.
2. The applicant stands convicted under Section 307 IPC and sentenced to undergo imprisonment for ten years. He is also convicted under Section 27 of the Arms Act and sentenced to undergo imprisonment for seven years.
3. Learned counsel for the applicant has submitted that though according to the prosecution, the applicant had fired at complainant-Sachin yet PW5 Dr. Lalit Chopra, Medical Officer did not notice any fire arm injury during his medico-legal examination. Only multiple pin head size red colour bruises were found present over the face involving the forehead, both the maxillary areas of the face, nose and chin. It is further submitted that at the trial of the case, complainant-Sachin, who was examined as PW1 as well as the two eye-witnesses, namely, PW2 Deepak and PW3 Shivam did not support the prosecution case. All of them were declared hostile and cross-examined by the Public Prosecutor. Despite the same, no incriminating material could be brought on record by the prosecution to

connect the applicant with the commission of the crime. It is also submitted that the applicant has already undergone a period of about 1? years. As the appeal is likely to take a long time, the substantive sentences of imprisonment of the applicant be suspended.

4. Learned State counsel has opposed the prayer by submitting that it was the applicant, who had fired at the complainant. Learned State counsel has, however, produced the custody certificate, as per which the applicant had undergone an actual sentence of one year, three months and twenty one days as on 10.3.2016 which included post-conviction period of ten months and ten days.

5. Final hearing of the appeal is likely to take a long time. The applicant has been sentenced to undergo term imprisonment. Keeping in view the dictum of law as laid down by the Hon''ble Supreme Court in Bhagwan Rama Shinde Gosai and others v. State of Gujarat, AIR 1999 SC 1859 and Kiran Kumar v. State of M.P., 2002 SCC (CrI.) 1017, this Court is of the considered view that the applicant deserves the concession of suspension of sentences of imprisonment.

6. Resultantly, the application is accepted, sentences of imprisonment of applicant-Rajnish are suspended and he is ordered to be released on bail on his furnishing appropriate bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Jhajjar.