

(2019) 02 RAJ CK 0211

In the Rajasthan High Court

Case No : Suspension Of Sentence(Appeal) No. 1160 Of 2018

Ramniwas

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 21-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 392
Code Of Criminal Procedure, 1973 — Section 389

Citation : (2019) 02 RAJ CK 0211

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : M.L. Bishnoi, Deepak Choudhary

Judgement

Heard learned Counsel for the applicant-appellant and learned Public Prosecutor on application for suspension of sentences. Perused the material available on record.

The appellant herein was apprehended on 25.03.2012 while allegedly carrying 93 Kgs. contraband of poppy straw in a looted vehicle. He has been convicted by the impugned judgment dated 29.04.2016 and has been sentenced to ten years' R.I. The appeal preferred on behalf of the appellant-accused against his conviction has not come up for hearing. However, in the present case, the respondents are considering the custodial period suffered by the petitioner by excluding period of custody which he has suffered in another case under Section 392 IPC pertaining to the offence of looting of the same car from which poppy straw was recovered in this case.

Shri Deepak Choudhary, learned PP representing the State vehemently opposed the submissions advanced by the appellants, counsel.

Having regard to the peculiar facts of the case, the significant grounds available to the appellant for challenging his conviction and the substantial period of custody suffered by him and the bleak chances of early hearing of the appeal,

this Court is inclined to accept the instant 3rd application for suspension of sentences.

Accordingly, the instant third application for suspension of sentences filed under Section 389 Cr.P.C. is allowed and it is ordered that the sentences passed by the learned Special Judge NDPS Cases, Jodhpur vide judgment dated 29.04.2016 in Sessions Case No.90/2012 against the appellant-applicant Ramniwas S/o Kalla Ram shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail subject to the condition that he shall deposit 50% amount of fine and upon his 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 25.03.2019 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That he/she/they will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant(s) changes the place of residence, he/she/they will give in writing his/her/their changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address(s), 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(s) in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant(s) was/were 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(s) does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.