

(2022) 05 MP CK 0047

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 972 Of 2022

Sanu @ Altaf Ali And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 11-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 34, 302, 498A

Citation : (2022) 05 MP CK 0047

Hon'ble Judges : Rohit Arya, J;Milind Ramesh Phadke, J

Bench : Division Bench

Advocate : Susheel Goswami, Vijay Sundaram, Padam Singh

Final Decision : Allowed

Judgement

Heard on I.A. No.3926/2022, first application filed under Section 389(1) Cr.P.C on behalf of appellant No.2-Rafika Begum seeking suspension of sentence and grant of bail.

Appellant No.2-Rafika Begum stands convicted under Sections 302/34 of IPC and sentenced to suffer Life Imprisonment with a fine of Rs.2,000/- and under Section 498A of IPC and sentenced to suffer three years' R.I. with fine of Rs.500/- with default stipulation vide judgment of conviction and order of sentence dated 31/12/2021 passed Sessions Judge, Datia, District Datia (M.P.) in Sessions Trial No.113/2017.

In compliance of the Court order dated 27/04/2022, the medical/health status report of appellant No.2-Rafika Begum has been placed on record as well as appellant No.2-Rafika Begum has been produced in police custody from Central Jail, Gwalior.

The medical report suggests that appellant has to undergo number of tests as her health condition is not normal. Indeed, she has been brought on a wheel chair. Her health condition appears to be precarious. With great difficulty, she is

found breathing.

Learned counsel for appellant submits that she is 71 years of age. However, Shri Padam Singh, learned counsel for objector disputes the same and submits that she is 59 years of age.

Such alleged variation in age shall not detain us to pass an order for suspension of sentence on medical ground.

Per contra, Shri Vijay Sundaram, learned Panel Lawyer appearing for State, opposes the application supporting the order impugned.

Upon hearing learned counsel for the parties, though this Court refrains from commenting upon rival contentions so advanced touching merits of the case but regard being had to the fact that appellant No.2-Rafika Begum has no criminal antecedents and since there is no likelihood of early hearing of the appeal in the near future; therefore, in the obtaining facts and circumstances, prima facie, as discussed above, this Court is of the considered view that sentence awarded to appellant No.2-Rafika Begum may be suspended pending disposal of the appeal.

Consequently, I.A. No.3926/2022 deserves to be and is hereby allowed.

Accordingly, it is directed that the jail sentence of appellant No.2-Rafika Begum shall remain suspended and he be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the trial Court.

As there is no one in the family who may transport her to Datia, therefore, looking to her failing health, the Jail Authority is directed to ensure that appellant No.2-Rafika Begum is transported to Datia at Government expenses with security and medical aid, after furnishing of bail bond.

Appellant No.2-Rafika Begum is directed to appear before the CJM, Datia first on 12/07/2022 and thereafter on other subsequent dates as may be fixed in this behalf.

Learned State counsel is directed to send e-copy of this order to all the concerned including the concerned Station House Officer of the Police Station for information and necessary action.

IA No.3926/2022 stands closed.

Certified copy as per rules.