
(2023) 09 MP CK 0022

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 11374 Of 2023

Sanwalji @ Sanwarlal And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-09-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 436

Citation : (2023) 09 MP CK 0022

Hon'ble Judges : Anil Verma, J

Bench : Single Bench

Advocate : Ravindra Singh Parmar, Pranay Joshi

Final Decision : Allowed

Judgement

Anil Verma, J

Heard on I.A.No.13626/2023, which is first application under Section 389(1) of Cr.P.C. for grant of bail and suspension of remaining jail sentence on behalf of all the three appellants namely Sanwalji @ Sanwarlal, Suresh and Banesingh.

Appellants stand convicted vide judgment dated 29/08/2023 passed in S. T. No.362/2022 by Sessions Judge, Rajgarh (Biaora) under Section 436 of Indian Penal Code, 1860 and have been sentenced to undergo 03 RI with fine of Rs.15,000/- each with usual default stipulation. Fine amount has been deposited by the appellants.

Learned counsel for the appellants submits that appellants are innocent persons and they have been falsely implicated in this matter. During the trial appellants were on bail and they have not misused the liberty granted to them. Their jail sentence has also been suspended by the Trial Court till 27/09/2023. There are material contradictions and omissions in the statement of the witnesses. Looking to old pendency of the cases for consideration, final conclusion of this appeal would take sufficient long time. There is a strong case in favour of the

appellants. Hence, the execution of the remaining part of the jail sentence of the appellants be suspended till the final disposal of this appeal.

Per contra, learned counsel for the respondent / State opposes the application for suspension of sentence and prays for its rejection by submitting that the trial Court after due consideration of the evidence available on record, convicted the appellants. Hence, they are not entitled to grant benefit of suspension of sentence.

Considering all the facts and circumstances of the case, nature of the allegation levelled against the appellants and also taking note of the fact that appellants were on bail during the trial; there is no complaint that they have misused the liberty granted to them and final conclusion of the appeal will also take sufficient long time. In view of the aforesaid facts and circumstances of the case, I deem it proper to suspend the remaining custodial sentence of the appellants.

Accordingly, I.A.No.13626/2023 is allowed and it is directed subject to deposit of fine amount, if not already deposited, and subject to furnishing personal bond by the appellant in the sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) each with one solvent surety each in the like amount to the satisfaction of learned trial Court, the execution of remaining custodial part of the sentence of the appellants shall remain suspended, till final disposal of this appeal.

The appellants after being enlarged on bail shall mark their presence before the Registry of this Court on 30/11/2023 and on all such subsequent dates, which are fixed in this behalf.

Let record of the trial Court be requisitioned.

Certified copy as per rules.