

(2018) 11 SIK CK 0003

In the Sikkim High Court

Case No : Criminal Revision Petition No. 3 Of 2018

Sashi Shekhar Thakur,S/o Shri Arun Kumar Thakur

APPELLANT

Vs

State of Sikkim

RESPONDENT

Date of Decision : 02-11-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 397, 401

Indian Penal Code, 1860 — Section 354A(1), 354A(1)(i), 354A(1)(iv)

Citation : (2018) 11 SIK CK 0003

Hon'ble Judges : Bhaskar Raj Pradhan, J

Bench : Single Bench

Advocate : N. Rai

Final Decision : Disposed Off

Judgement

1. This is to consider an application for suspension of sentence and grant of bail under Section 397 of the Code of Criminal Procedure, 1973 (Cr.P.C.)

pending the determination of the Revision Petition under Sections 397 and 401 Cr.P.C.

2. The learned Trial Judge convicted the Applicant under Section 354-A(1) of the Indian Penal Code, 1860 (IPC) and sentenced him to undergo

simple imprisonment for a period of 2 years and fine of Rs.5000/- vide judgment and order both dated 30.04.2018. The learned Sessions Judge vide

impugned judgment dated 24.10.2018 declined to interfere with the judgment of the learned Trial Judge but modified the provision of law clarifying that

the conviction ought to have been under Section 354A(1) (i) & (iv) IPC.

3. The Applicant was taken into custody on 24.10.2018 and has been lodged at the State Central Prison, Rongyek, East Sikkim ever since.

4. Heard Mr. N. Rai, learned Senior Advocate for the Applicant and Mr. Karma

Thinlay Namgyal, learned Additional Public Prosecutor for the State-

Respondent. Whilst Mr. N. Rai would seek suspension of sentence and grant of bail on the grounds urged in the application Mr. Karma Thinlay

Namgyal would submit that this was a case in which the judgment of the Trial Court has been confirmed by the Sessions Court as well and therefore

bail ought not to be granted.

5. It is submitted on behalf of the Applicant that he is a young man of 28 years of age hailing from a respectable family presently posted as Branch

Manager in Syndicate Bank in U.P. and is a permanent resident of Benipatti, Madhubani, Bihar. The Applicant is stated to be the earning member of

his family comprising of his old dependent parents. It is urged that the Applicant was on police bail during investigation and thereafter on Court bail

during trial as also during appeal proceedings and he has never misused/violated any of the terms and conditions mentioned in the bail orders. It is also

urged that Section 354A(1) (i) & (iv) IPC is a bailable offence.

6. The order dated 09.02.2018 passed by the learned Chief Judicial Magistrate, South Sikkim at Namchi reflects that the Applicant has been released

on bail upon furnishing personal bond and surety bond of Rs.50,000/- each. The learned Chief Judicial Magistrate had also released the Applicant on

bail upon furnishing personal bond and surety bond of Rs.1,00,000/- each vide order dated 30.04.2018 to allow the Applicant to prefer an appeal before

the Sessions Court.

7. This Court has admitted the Revision Petition and called for the lower Court records for hearing. In view of the aforesaid, pending hearing of the

present Revision Petition, the Applicant shall be released on bail to the satisfaction of the learned Sessions Judge, South Sikkim at Namchi on a

personal bond of Rs.50,000/- with two sureties of the like amount. The Applicant shall personally attend all dates of hearing in the present

proceedings. The Applicant as well as the sureties shall also furnish their personal and official addresses, e-mail addresses, telephone and mobile

numbers and if there is any change in the same notify the changes forthwith.

8. The application stands disposed.