

(2023) 12 RAJ CK 0075

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 2512 Of 2023

Yusuf Hussain Kabawaliya

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 19-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389

Citation : (2023) 12 RAJ CK 0075

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Tanay Sharma, Anil Joshi, Pallav Sharma

Final Decision : Allowed

Judgement

Manoj Kumar Garg, J

Heard.

Admit.

Issue notice. Learned Public Prosecutor accepts notice on behalf of State.

Heard learned counsel for the parties on Misc. Bail Application (Suspension of Sentence) No.1564/2023.

Upon a consideration of the arguments advanced on behalf of the appellant and having regard to the facts and circumstances of the case, including the facts that sentence of similarly situated co-accused Rajan Kukreja has already been suspended and the case of present appellant is similar to that co-accused and appellant is in judicial custody for more than 8 years & 6 months and hearing of the appeal is likely to take time, therefore, this court is of the opinion that it is a fit case for suspending the substantive sentence awarded to the accused appellant.

Accordingly, the application for suspension of sentence filed under Section 389

Cr.P.C. is allowed and it is ordered that the substantive sentence passed by the learned Special Judge, NDPS Act Cases, Abu Road, District Sirohi vide judgment dated 12.10.2023 in Special Case No.02/2016 against the appellant- applicant – Yusuf Hussain Kabawaliya S/o Hussain, shall remain suspended till final disposal of the aforesaid appeal subject to depositing the 50% fine amount as imposed by the learned trial Court, provided he executes 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 19.01.2024 and whenever ordered to do so, till the disposal of the appeal on the conditions indicated below:-

1. That he will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the appellant changes the place of residence, he will give in writing his changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address, they will give in writing their changed address to the trial Court.
4. The appellant shall deposit 50% of fine amount as imposed by the trial court.

The learned trial Court shall keep the record of attendance of the accused-appellant in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused- appellant was 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-appellant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.