

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

Cr.A.4891/2019

(Mahesh Singh Kaurav Vs. The State of Madhya Pradesh)
(1)

Gwalior, dated : 18/05/2020

Shri Anil Mishra, learned counsel for the appellant.

Shri Rohit Mishra, learned Special Public Prosecutor for the Lokayukt/respondent.

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19 outbreak, the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government.

Heard on I.A. No. 9914/2019, which is Second application for suspension of sentence and grant of bail filed on behalf of the appellant. The first application for suspension of sentence and grant of bail was dismissed as withdrawn vide order dated 11/09/2019.

This appeal has been preferred against the judgment dated 31/05/2019 passed by Special Judge (Prevention of Corruption Act), District Bhind in case No. SC (LOK) 4/2015, whereby the appellant has been convicted under Section 7 of Prevention of Corruption Act and sentenced to undergo R.I. for 4 years with fine of Rs.10,000/- in default to suffer S.I. for Six months & under Section 13 (2) of Prevention of Corruption Act and sentenced to undergo R.I. for 5 years with fine of Rs.10,000/- in default to suffer S.I. for Six months.

Learned counsel for the appellant submits that present appellant is not a main accused. It is submitted that appellant has been falsely convicted as demand has not been proved or established.

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It is further submitted that as per para 48 of the judgment, it is clear that present appellant had no power or authority to issue a cheque. He was working as subordinate to the other person. The appellant has no criminal antecedents. Attention has also been invited to the guidelines issued to all the States and Union Territories by the Apex Court for de-congesting the prisons in suo motu W.P. (C) No. 1/2020 (IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS) to consider release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less by constituting a High Powered Committee. It is further submitted that there are omissions and contradictions in the evidence of the prosecution witnesses. It is further submitted that prosecution has not examined any independent witness, but only interested witnesses and relatives of the complainant have been examined. There are fair chances of success of this appeal and the appeal may take long time for its conclusion and the appellant cannot be kept in custody for an unlimited period. Under these circumstances, the execution of sentence be suspended and he be released on bail.

On the other hand, learned counsel appearing on behalf of the respondent opposes the bail application.

Keeping in view the aforesaid submission of learned counsel for the parties and the facts & circumstances of the case, IA No. 9914/2019 is allowed.

It is, therefore, directed that if appellant deposits the entire fine

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amount, if not already deposited, and furnishes a personal bond in the sum of **Rs.50,000/- (Rupees fifty thousand)** to the satisfaction of trial Court for his appearance before the Registry of this Court on **14th September, 2020** and on such subsequent dates as may be fixed in this regard, sentences of imprisonment awarded to him shall remain suspended till further orders and he shall be released on bail. The appellant shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus. The applicant shall install Arogya Setu App.(If not already installed) in the mobile phone.

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

E- copy of this order be sent to the trial Court concerned for compliance, if possible by the office of this Court.

Certified copy/e-copy as per rules/directions.

(S.A.Dharmadhikari)
Judge

Durgekar*