

**HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE**  
**(SINGLE BENCH : HON. Mr. JUSTICE VIVEK RUSIA)**

**CRA No. 2992 of 2021**

Ashutosh Shrivastava S/o. Omprakash Shrivastava, Aged 29 years, R/o. Yaman, 1/17, Sahara Estate Village, Bangrasiya, Tehsil Hujur, District Bhopal. Permanent r/o. Hitotiya Gangrediya Road, Bhopal.

---Petitioner.

Versus

State of M.P. through Police Sttation Madhav Nagar, Ujjain.

---Respondents.

**Date: 16.09.2021 :**

Shri Hitesh Sharma, learned counsel for the appellent.

Smt. Mamta Shandilya, learned Panel Advocate for respondent/State.

With consent of the learned counsel for the parties, heard finally.

**JUDGMENT**

The appellent has filed the present appeal against the judgment of conviction dated 27.2.2021 passed by learned Addl. Sessions Judge, Ujjain in S.T. No.127/2018 whereby he has been convicted and sentenced as under :

Section & Act.	Imprisonment	Fine Amount	Imprisonment in lieu of default of payment of fine.
420 of the IPC	3 years RI	2,000/-	Six months additional RI.
409 of the IPC	4 year RI	3,000/-	Six months additional RI.

The appellent has filed an application (I.A. No.10285/2021) for suspension of the jail sentence. This Court has called the report from the Jail Superintendent, Bhopal in respect of period of custody in the present crime. As per report dated 30.6.2021 sent by the Jail Superintendent, Bhopal, the appellent has undergone 3 years, 5 months and 5 days and the remaining sentence is 6 months and 24 days. As on today i.e. on 16.9.2021, the appellent has already undergone more than two months and now the remaining jail sentence is only four months.

Learned counsel for the appellent submits that the appellent was

convicted in S.T. No.65/2018 by 7<sup>th</sup> Addl. Sessions Judge, Sagar vide judgment dated 13.12.2019 and against which the appellant has preferred CRA No.11247/2019. Vide order dated 14.8.2020 the appeal has been admitted for final hearing and the jail sentence has been suspended subject to deposit of Rs.70,000/- in the trial Court. He further submits that the learned trial Court in Para 32 of the judgment has observed that except Anjana Shukla and Avni Shukla the appellant has entered into compromise with all other complainants and he has been discharged. So far as Anjana Shukla and Avni Shukla are concerned, they appeared as witnesses in the witness box and stated that they did not pay any amount directly to the present appellant but paid the amount to Anurag Gaud. Anurag Gaud has filed an affidavit that that he has received the entire amount from the appellant. They have not initiated any recovery proceedings against the appellant. The appellant has undergone almost the entire jail sentence of four years and only two cases were registered against him. He was a travel agent at the relevant point of time. Therefore, he is not assailing the impugned judgment of conviction on merit, but prays for reduction of the sentence from four years to the period already undergone.

On the other hand, learned Panel Advocate appearing for respondent/State opposes the aforesaid prayer.

In the similar case, the appellant has been released on bail by this Court vide order dated 14.8.2020, therefore, in this case also, he is entitled for suspension of sentence looking to the period of incarceration. After suspension of the jail sentence, the appellant will have to appear before this Court for years together because the appeal is not likely to be heard finally in near future, therefore, instead of suspending the jail sentence, it would be proper and in the interest of justice to reduce the sentence from four years to the period already undergone by maintaining the fine amount.

Accordingly, this appeal stands partly allowed. The findings recorded by the learned trial Court are hereby affirmed, but the

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sentence awarded by the trial Court is reduced from four years to the period already undergone. Subject to deposit of the fine amount, the appellant be set at liberty forthwith, if not required in any other cause.

**( VIVEK RUSIA )  
JUDGE**

Alok/-