

THE HIGH COURT OF MADHYA PRADESH

CRA.No. 5145/2017

(Banwari Lal Meena Vs. State of M.P.)

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Jabalpur, Dated : 06 / 12/ 2021

Shi S.K. Singh, learned counsel for the appellant.

Shri Pradeep Gupta, learned G.A. for the respondent/State.

Heard on IA.No.10219/2021, which is a repeat application under Section 389(1) of Cr.P.C. for suspension of the custodial sentence passed against appellant Banwari Lal Meena and release him on bail.

Earlier applications filed on behalf of the appellant for suspension of jail sentence were dismissed as withdrawn vide orders dated 20.06.2018 and 22.02.2021.

This appeal has been preferred against the judgment dated 27.10.2017 passed by II Additional Sessions Judge, Sidhi District Sidhi in S.T.No.131/2015, whereby learned II ASJ found the appellant guilty for the offences punishable under Sections 409 IPC and sentenced him to undergo R.I. for ten years with fine of Rs.500/- and under Section 66 (C) and 66(D) of IT Act trial court sentenced him to undergo R.I. for 3 years each with fine of Rs.500/- each with default stipulation.

Learned counsel for the appellant submitted that learned trial Court without appreciating the evidence properly, wrongly convicted the appellant for the aforesaid offences. It is alleged that appellant embezzled an amount of Rs.20,00,000/- but in this regard there are many contradiction and omissions in the statements of the prosecution witnesses. He further submitted that appellant has already suffered the jail sentence of around 8 years. Appellant is in custody since 01.06.2015. Hence, prayed for suspension of the jail sentence and release of the appellant on bail since the hearing of this appeal will take time.

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On the other hand, learned counsel for the respondent opposed the prayer and submitted that the guilt of the appellant was proved beyond reasonable doubt, therefore, learned trial Court has rightly convicted and sentenced the appellant.

Looking to the facts and circumstances of the case, the contention of the learned counsel for the appellant and that the fact that no minimum sentence is prescribed under section 409 of IPC, appellant is in custody since 01.06.2015, and according to listing policy the hearing of this appeal is likely to take long time, the application is allowed and it is directed that the execution of the jail sentence alone passed against the appellant shall remain suspended during pendency of this appeal and he be released on bail upon furnishing personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one surety in the like amount to the satisfaction of the trial Court for her appearance before the Registry of this Court on **21/03/2022** and on such further dates as may be fixed in this behalf by the Registry during the pendency of this appeal.

Since the appeal has already been admitted for hearing vide order dated 20.06.2018, list the case for final hearing in due course.

C.C. on payment of usual charges.

(Rajeev Kumar Dubey)
Judge