

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 911 of 2022

Charku Bhuiyan Petitioner
Versus
1. The State of Jharkhand
2. Sarita Devi Opp. Parties

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Gautam Kumar, Advocate
Ms. Savita Kumari, Advocate
For the State : Mr. V. S. Sahay, A.P.P

Order No.09 /Dated: 09th August, 2023

I.A. No.6321 of 2023

The learned counsel for the petitioner has moved the instant Interlocutory Application under Section 401 of the Code of Criminal Procedure for suspension of sentence passed by the trial court which was affirmed by the Appellate Court as well.

Learned counsel for the petitioner has submitted that petitioner has been convicted by the court of learned Chief Judicial Magistrate, Hazaribag vide order dated 12.04.2021, wherein the petitioner has been convicted for the charge under Section 420 of the Indian Penal Code and sentence him with R.I. for three years and a fine of Rs.10,000/- in default of payment of fine, was directed to undergo simple imprisonment of one month. Cr. Appeal No.20 of 2021 was filed against the judgment and order of sentence dated 12.04.2021 and the same was dismissed by learned Additional Sessions Judge, Hazaribag vide judgment dated 21.07.2022 and affirm the order of conviction and sentenced passed by the learned trial court.

Learned counsel for the petitioner has submitted that petitioner was the owner of the land in question, which was alleged to be sold to the complainant and thereafter it is alleged that the same was sold to another person, indeed a Civil Suit in regard of cancellation of the deed and a question of title is also pending before the civil court. No alleged offence under Section 420 of the Indian Penal Code is made out against the petitioner. Both the Court below have not appreciated this material fact.

Learned A.P.P opposed the contentions made by the learned counsel for the petitioner and contended that the impugned order passed by both the courts below does not require any interference and having no infirmity.

Keeping in view the nature of the offence and the sentence passed by the court below, I.A. No.6321 of 2023 is allowed. The sentence passed by the court-below shall remain suspended during the pendency of this Cr. Revision.

In consequence thereof, the petitioner is directed to be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of like amount each to the satisfaction of the Chief Judicial Magistrate, Hazaribag in connection with Complaint Case No.1839 of 2009, (T.R. No.240 of 2021).

In view thereof, I.A. No.6321 of 2023 is disposed of.

Cr. Revision No. 911 of 2022

Admit.

Let notice be issued to O.P. No.2.

The State is directed to ensure service of notice to O.P. No.2, through the Police concerned and affidavit to that effect be filed on or before date fixed.

Call for scanned copy of the Lower Court Records from the court concerned.

List this case in seriatim.

(Subhash Chand, J.)