

**IN THE HIGH COURT OF SIKKIM
CRIMINAL APPELLATE JURISDICTION**

Crl. A. No. 25 OF 2016

Santa Maya Rai,
W/o Shri Bir Kumar Rai,
R/o Lingee,
South Sikkim.
Presently residing at
Diesel Power House,
Gangtok, East Sikkim. ----- Appellant.

-VERSUS-

State of Sikkim. ----- Respondent.

PETITIONER
ADVOCATE (S)
FOR ----- Mr. N. B. Khatiwada, Sr. Advocate with Ms. Gita Bista and
Ms. Monika Rai.

RESPONDENT
ADVOCATE (S)
FOR ----- Mr. J. B. Pradhan, Public Prosecutor, Mr. Karma Thinlay,
Addl. Public Prosecutor, Mr. S. K. Chettri and Ms. Pollin
Rai, Asstt. Public Prosecutor.

Crl. A. No. 25/2016
Santa Maya Rai vs. State of Sikkim

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ.

03. 27.10.16 Present: Mr. N.B. Khatiwada, Sr. Advocate with Ms. Monika Rai Advocate for the Appellant.

Mr. Karma Thinlay, Addl. Public Prosecutor with Ms. Pollin Rai, Asstt. Public Prosecutor for the State.

...

IA No. 01 of 2016 is an application seeking suspension of sentence and grant of bail.

The facts in nutshell are that the appellant along with one Bir Kumar Rai was found with counterfeit notes. Accordingly, they were tried for the offences punishable under Section 489-B and 489-C read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC"). Learned trial Judge having examined the case from all angles convicted the appellant/ accused No. 2 for the offences punishable under Sections 489-B and 489-C of the IPC. The accused No.1, namely, Bir Kumar Rai was acquitted from all the charges. The appellant was consequently sentenced to undergo rigorous imprisonment for two years and fine of Rs.5,000/- under Section 489-B IPC. In default of payment of fine, she shall undergo further Imprisonment for six months. She was further sentenced to undergo

7

rigorous imprisonment for two years and fine of Rs.5,000/- under Section 489-C IPC. In default of the payment of fine, she shall undergo further imprisonment for six months. Both the sentences were to run concurrently.

Mr. N.B. Khatiwada, learned Senior Counsel appearing for the appellant submits that the appellant was enlarged on bail during trial and thereafter on conviction he was again granted bail to enable the appellant to prefer the instant appeal. The learned Senior Counsel would further contend that having regard to the fact that the petitioner is convicted to undergo two years sentence and the appellant had already undergone total 91 days imprisonment, the Court may consider to enlarge the appellant on bail. There is no apprehension of tampering of evidence or taking recourse to other methods which may hamper the pending appeal. It is further contended that the appellant is a resident of Sikkim and she is available to surrender at any point of time.

On the other hand, Mr. Karma Thinlay, learned Additional Public Prosecutor submits that it is a case of economic offence, the accused may indulge into some offences if released on bail. The appellant/accused has been convicted, thus, she may not be released on bail.

Having considered all the aspects of the matter, particularly, the length of imprisonment, as also the fact that the appellant had already undergone 91 days of imprisonment, there is no reason not to enlarge the appellant on bail, pending appeal. Accordingly, the appellant/accused be released on bail on furnishing personal bond as well as surety bond of Rs.50,000/- (Rupees fifty thousand) each.

The application is ordered, accordingly.


Chief Justice
27.10.2016

jk/to **Index : Yes / No**
 Internet : Yes / No