

High Court of Sikkim

Record of proceedings

Cr1.A. No.06 of 2020

Maheshwar Singh

Appellant

VERSUS

State of Sikkim

Respondent

Date : 04-06-2020

CORAM : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Appellant

Mr. N. Rai, Senior Advocate.
Ms. Sudha Sewa, Advocate.

For Respondent

Ms. Mukun D. Tamang, Assistant Public Prosecutor.

O R D E R

Heard.

Issue Notice.

Learned Assistant Public Prosecutor accepts notice on behalf of the State-Respondent and waives formal notice.

Heard on admission.

Admit the Appeal.

Call for the records from the Learned Trial Court.

Let paper books be prepared.

List for orders on 03-08-2020.

Heard also on I.A. No.01 of 2020 which is an application filed by the Appellant under Section 389(1) of the Code of Criminal Procedure, 1908.

The Appellant herein was convicted for the offence under Section 354A(2) of the Indian Penal Code, vide the Judgment dated 26-02-2020 and sentenced to undergo rigorous imprisonment for a period of one and a half years and to pay a fine of Rs.25,000/- (Rupees twenty five thousand) only, vide Order on Sentence of the same date, in Sessions Trial (POCSO) Case No.09 of 2019, of the Learned Special Judge (POCSO), West Sikkim, at Gyalshing. On the

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same day, he was enlarged on bail under the provisions of Section 389(3) of the Code of Criminal Procedure, 1908 (for short, "Cr.P.C.") on furnishing PB&SB of Rs.50,000/- (Rupees fifty thousand) only.

Learned Senior Counsel for the Appellant submits that although the statutory period of 30 days has expired on 26-03-2020, however on account of the lockdown (Covid-19 Virus) this Court may consider the Orders of the Hon'ble Supreme Court, dated 23-03-2020 (In Re : Cognizance for Extension of Limitation¹) whereby the period of limitation has been extended. Learned Senior Counsel drew the attention of this Court to the relevant portion of the Order extracted hereinbelow;

"

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

....."

That, throughout the trial and thereafter the Appellant has remained on bail and has made no attempts to abscond. Hence, in consideration of his conduct, the sentence imposed on him may be suspended and he may be enlarged on bail under Section 389(1) of the Cr.P.C. as he has his family to take care of.

Objecting to the Petition for bail, Learned Assistant Public Prosecutor contended that the Prosecution apprehends that the Appellant will abscond and hence, the Petition be rejected. That, however should this Court be inclined to consider the Petition for

¹ 2020 SCC OnLine SC 343

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bail, stringent conditions be imposed to ensure that the Appellant remains in Sikkim.

I have carefully considered the submissions of the Learned Counsel for the parties.

Undisputedly, the Appellant has remained in Sikkim throughout the trial and on conviction has continued to be on bail and has not absconded.

In due consideration of the conduct of the Appellant, this is a fit case where the Appellant can be enlarged on bail and his sentence suspended.

Consequently, the Appellant be allowed to continue on the same bail bonds furnished before the Court of the Learned Special Judge (POCSO), West Sikkim, at Gyalshing, subject to the condition that he shall not leave Soreng, West Sikkim, without the specific written permission of the Station House Officer, Soreng Police Station.

The sentence imposed on him *supra* stands suspended till further orders.

I.A. No.01 of 2020 stands disposed of accordingly.

Judge
04-06-2020