

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 810 OF 2020  
(Arising out of Special Leave Petition (Crl.)No.5022 of 2020)

MD. ILYAS HUSSAIN @ MD. ILLIYAS

...Appellant

Versus

UNION OF INDIA THROUGH CBI

...Respondent

**ORDER**

Leave granted.

This appeal challenges the judgment and order dated 22.09.2020 passed by the High Court of Jharkhand at Ranchi, while dealing with application preferred under Section 389 of the Code of Criminal Procedure ('the Code', for short) in Crl. Appeal (SJ) No.444/2019.

The appellant was convicted by the trial Court for the offences punishable under Sections 420, 467, 468, 471 of the Indian Penal Code and under Sections 13(2) r/w 13(1) (c) & (d) of the Prevention of Corruption Act, 1988. He was awarded sentences for each of those offences, the maximum sentence being imprisonment for five years. The sentences were directed to run concurrently.

In the appeal arising therefrom, an application under Section 389 of the

Code was preferred and during pendency of such application, interim relief was prayed for. The prayer in that behalf having been rejected, the instant appeal has been preferred.

On 16.10.2020, following order was passed by this Court:

“Mr. Manan Kumar Mishra, learned Senior Advocate appearing for the petitioner submits that the wife of the petitioner expired on 10.09.2020 and her “CHALISAWA” is to take place on 19.10.2020 and “Kul-O-Kurankhani” and “Miladun Navi” will take place on 10.11.2020.

Issue notice, returnable on 23.11.2020.

Dasti service, in addition, is permitted. 2 Liberty is granted to serve the learned Standing Counsel for the respondent.

Pending further consideration, the petitioner shall be released on interim bail in connection with FIR being R.C. No.02(A)/97-Ran dated 20.03.1997, subject to the deposit of cash security of Rs.50000/- and two like sureties to the satisfaction of the Trial Court. Let the money be deposited in the Trial Court.

The facility of interim bail shall be available only up to 18.11.2020 by which date the petitioner shall surrender himself before the Trial Court.

The appropriate Surrender Certificate shall then be filed in this Court before the matter is taken up for hearing on the next occasion.”

Mr. Manan Kumar Mishra, learned Senior Advocate submits that the appellant accordingly availed the facility of interim bail whereafter he surrendered and is presently in jail.

The record indicates that as against the maximum sentence of imprisonment for five years, the appellant has completed more than 2 years and five months of actual imprisonment and that the appellant is about 75 years of age.

Considering the entirety of the circumstances on record, in our view, the appellant is entitled to the relief under Section 389 of the Code pending

consideration of Criminal Appeal No.444/2019 by the High Court.

We, therefore, direct:-

- (a) The appellant shall be produced before the Trial Court within three days.
- (b) The Trial Court shall release him on bail subject to such conditions as the Trial Court may deem appropriate.
- (c) The benefit in terms of this order shall be available till the disposal of Criminal Appeal No.444/2019 by the High Court.

We request the High Court to consider taking up said Criminal Appeal No.444/2019 for disposal at an early date.

With these observations, the instant appeal stands disposed of.

.....J.  
[Uday Umesh Lalit]

.....J.  
[Vineet Saran]

.....J.  
[S. Ravindra Bhat]

New Delhi;  
24<sup>th</sup> November, 2020.

