

(2019) 04 MP CK 0092
Madhya Pradesh High Court
Case No: Civil Revision No. 1713 Of 2019

Prem Dahuja

APPELLANT

Vs

Central Bureau Of Investigation

RESPONDENT

Date of Decision: April 5, 2019

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 161, 397, 401
- Indian Penal Code, 1860 - Section 120B, 214
- Prevention Of Corruption Act, 1988 - Section 7, 13(1), 13(2)

Hon'ble Judges: Rajendra Kumar Srivastava, J

Bench: Single Bench

Advocate: Ashish Tiwari, J.K. Jain

Final Decision: Allowed

Judgement

Heard on the question of admission as well as on I.A.No.6221/2019, which is an application for suspension of sentence and grant of bail to the applicants.

The revision is admitted for final hearing.

The revision has been preferred under Section 397/401 of the Cr.P.C., 1973 by the applicants against impugned judgment dated 29.03.2019 in

Cr.A.No.380/2016 passed by learned 2nd Addl. Sessions Judge, Jabalpur, M.P., arising out of judgment of conviction dated 30.11.2016 passed in

Cr.Case No. 14971/2009 by JMFC, Jabalpur, M.P., whereby the learned Trial Court has convicted the applicants for the offence punishable under

Section 214/120-B & 120-B of IPC and passed the judgment of sentence for R.I. for 1 year and 6 months with a fine of Rs.1,000/- and R.I. for 1 year

and 6 months with a fine of Rs.1,000/- in each respectively with default stipulation in each and the learned Sessions Court affirmed the judgment passed by the learned Trial Court.

It is alleged that husband of applicant-accused No. 1 Krishna Kumar Dahuja the then Regional Labour Commissioner (Central) Jabalpur was caught

red handed in CBI case No. RC009/2005-A0006 dated 08.07.2005 by CBI, Jabalpur Branch while demanding and accepting a bribe of Rs. 4,000/-

from Santosh Kumar Ghosh, A civil contractor. In this proceeding, complainant-Nagendra Pal Singh was the eye witness. CBI investigated the matter

and filed a charge-sheet against K.K. Dahuja u/s 7 and 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988. Thereafter, K.K.

Dahuja hatched a conspiracy with his wife applicant-accused No.1-Smt. Prem and applicant-accused No. 2 Madan Gopal Talwar to allure the

witnesses and complainant of Spl. Case No. RC009/2005 by offering them a bribe of voluminous amount of about Rs. 1,00,000/- to get favourable

deposition by them in the Court of Law in order to screen the accused-K.K. Dahuja from legal punishment. K.K. Dahuja offered a sum of Rs.

1,00,000/-to witness Nagendra Pal Singh for giving statement in his favour. K.K. Dahuja visited Nagendra Pal Singh on 19.04.2006 in the evening and

invited him to the Indian Coffee House, Jabalpur during lunch time on 20.04.2006. Nagendra Pal Singh lodged a written complaint (Ex. P-1) with the

Superintendent of Police, CBI, Anti Corruption Branch, Jabalpur on 19.04.2006. On 20.04.2006, the complainant Nagendra Pal Singh, alongwith the

CBI officials and the two witnesses reached the Indian Coffee House, Sadar, Jabalpur. After sometime, the applicant-accused No.1-Smt. Prem

Dahuja came with K.K. Dahuja inside the coffee house and they sat in front of Nagendra Pal Singh. K.K. Dahuja explained to Nagendra Pal Singh as

to how he would depose in his pending trap case. Applicant-accused, Smt. Prem dahuja took out a packet from her bag and gave to her husband K.K.

Dahuja. K.K. Dahuja in turn tendered it to Nagendra Pal Singh, saying that ""this is one"" and handed over a copy of statement u/s 161 of Cr.P.C. and a

slip and asked him to meet his advocate. Thereafter, CBI officers came inside coffee house and seized the bag. Applicant No.2 Madan Gopal Talwar

was also cooperated in this case. After investigation challan has been filed.

Learned counsel for the applicant-accused submits that the applicants are in jail since 29.03.2019. He further submits that there is no evidence on the record against the applicants-accused for offering the bribe to complainant Nagendra Pal Singh. So no case is made out against the applicants-accused u/s 214 of IPC. They are falsely implicated in this case. Prosecution has examined in this case witnesses Suresh Kumar Khurana (PW-1), Tushar Kanti Chatterjee (PW-2), Mani Ram Chouhan (PW-3), Nagendra Pal Singh (PW-4), B.Paneer Selvam (PW-5), Santosh Kumar Ghosh (PW-6), Saanta Kumar Silla Nitin Dhimole (PW-8). In the cross-examination of the witnesses, so many contradictions and omissions were found in this case. Learned Court below has relied the evidence of Santosh Kumar Ghosh PW-6 but there is no allegation or charge has been framed in regards to this witness that applicants-accused offered any bribe to this witness. Applicant-accused No.1 is the wife of Late K.K. Dahuja, who was a heart patient. So she went her husband. N.P. Singh PW-4 lodged a written report Ex-P-1. It is not mentioned in that report that applicants-accused offered bribe any time. It is the case of prosecution that applicant-accused No.1 took out a bag from her bag and gave to her husband. Apart from that, no evidence is available on the record against the applicant-accused No.1. No material facts are also available in the evidence of Nagendra Pal Singh PW-4 in regards to applicant-accused No.2. Applicants-accused are in jail since 29.03.2019 and this revision will take time for its final disposal. Apart from that, it is not mandatory to give custodial sentence u/s 214 to the applicants-accused. There are fair chances to succeed in the case. Final hearing of this revision will take time. Therefore, the application filed on behalf of the applicants may be allowed and their period of remaining jail sentence may be suspended further and they may be released on bail.

Learned ASG for the respondent-CBI opposed the prayer.

After hearing rival submissions of learned counsel for the parties and looking to the facts and circumstances of the case and also looking to the evidence and detention period of the applicants, but without expressing any opinion on the merits of the case, I am of the considered opinion that it would be appropriate to suspend the custodial sentence awarded to the applicants and grant bail to them.

Consequently, I.A.No.6221/2019 is allowed subject to deposit of fine amount, if not already deposited. The custodial sentence awarded to the

applicants shall remain suspended during the pendency of this revision.

Applicants-Smt. Prem Dahuja, Madan Gopal Talwar be released from custody subject to their furnishing a personal bond in the sum of Rs. (Rupees

One Lakh Only) each with one solvent surety each in the like amount to the satisfaction of the Trial Court. The applicants shall appear and mark their

presence before Trial Court on 26.08.2019 and shall continue to do so on all such future dates, as may be given in this behalf, during the pendency of

the matter.

List this matter for final hearing in due course.

C.C. as per rules.