
Mohan Singh Vs State Of M.P

Criminal Revision No. 1919 Of 2020

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Sept. 3, 2020

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 397(1)#Indian Penal Code, 1860 " Section 34, 325#Constitution Of India, 1950 " Article 21

Hon'ble Judges: Rajeev Kumar Shrivastava, J

Bench: Single Bench

Advocate: D.S.Tomar, B.S.Gaur

Judgement

I.A. No.13270/2020, an application for urgent hearing, is taken up, considered and allowed for the reasons mentioned therein.

Also, heard on I.A.No. 13271/2020, first application under Section 397 (1) of Cr.P.C. for suspension of sentence on behalf of the petitioner.

Admit.

Record be called for.

This criminal revision has been filed against the judgment dated 20.08.2020 passed by Sessions Judge, District Ashoknagar in Criminal Appeal

No.85/2019 affirming the judgment of conviction and sentence dated 3.7.2019 passed by Chief Judicial Magistrate, District Ashoknagar in Case

No.1859/2016 by which the petitioner has been convicted under Section 325/34 of IPC and has been sentenced to undergo six years RI with fine of

Rs.1500 with default stipulation.

It is submitted by learned counsel for the petitioner that the petitioner has been wrongly convicted by the appellate Court as well as by the trial Court.

Hence, prays to suspend the jail sentence of the petitioner. He further undertakes to abide by all the terms and conditions of guidance, circulars and

directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic

and maintain hygiene in the vicinity while keeping physical distancing.

Counsel for the State vehemently opposed the prayer and prayed to reject the application for suspension of sentence.

Heard learned counsel for the parties through video conferencing and perused the materials available on record.

Hon'ble, the, Supreme, Court, in, the, case, of, IN, RE, : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU

W.P. (C) No.1/2020 has issued directions to all the States to constitute a High Level Committee to consider the release of prisoners in order to

decongest the prisons. The Supreme Court has observed as under :-

“The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID - 19). Having

regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is

controlled. We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee,

(ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released

on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have

been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a

lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon

the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial

or any other relevant factor, which the Committee may consider appropriate.”

Looking to the aforesaid and the fact, without commenting on merits of the case, the application (I.A. No.13271/2020) is allowed and the remaining

jail sentence of the petitioner is hereby suspended. It is hereby directed that on depositing the fine amount, if not already deposited, the petitioner shall

be released on bail on furnishing personal bond of Rs.25,00/- (Rupees Twenty five thousand only) with one solvent surety of the like amount to

the satisfaction of the concerned Court. The petitioner is further directed to mark his appearance before the Office of this Court on 11.01.2021 and

on subsequent dates given by the Office in this regard, till final disposal of this revision.

In view of COVID-19 pandemic, the Jail Authorities are directed that before releasing the petitioner, his Corona Virus test shall be conducted and if it

is found negative, then the concerned local administration shall make necessary arrangements for sending the petitioner to his house, and if the test is

found positive then the petitioner shall be immediately sent to concerning hospital for her/his treatment as per medical norms. If the petitioner is fit for

release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local

administration. After release, the petitioner is further directed to strictly follow all the instructions which may be issued by the Central Govt./State

Govt. or Local Administration for combating the Covid19. If it is found that the petitioner has violated any of the instructions (whether general or

specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local

Administration/Police Authorities shall immediately take them in custody and would send them to the same jail from where they were released.

The petitioner is further directed to inform the SHO of concerned police station about his residential address in the said area and it would be the duty

of the Public Prosecutor to send E-copy of this order to SHO of concerned police station for information.

List the case for final hearing in due course.

E- copy of this order be sent to the Court below concerned for compliance.

Certified copy/ e-copy as per rules/directions.

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