

THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Appeal Jurisdiction)

DATED : 11th December, 2024

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

I.A. No.01 of 2024 in Crl.Rev.P. No.07 of 2024

Petitioner : Dinesh Ahirwar

versus

Respondent : State of Sikkim

Application under Section 397(1)
of the Code of Criminal Procedure, 1973

Appearance

Mr. A. Moulik, Senior Advocate with Mr. Ranjit Prasad, Advocate for the Petitioner.

Mr. Thinlay Dorjee Bhuta, Public Prosecutor with Mr. Sujan Sunwar, Assistant Public Prosecutor for the State-Respondent.

ORDER

Meenakshi Madan Rai, J.

1. An application under Section 397(1) of the Code of Criminal Procedure, 1973 (hereinafter, "Cr.P.C."), has been filed by the Petitioner herein, seeking enlargement on bail and suspension of the sentence imposed on him in Criminal Appeal No.01 of 2024 (*Dinesh Ahirwar vs. State of Sikkim*). The Learned Sessions Judge upheld the Judgment of conviction and the sentence of imprisonment of twelve months with fine and a default stipulation, imposed on the Petitioner, under Section 354D of the Indian Penal Code, 1860 (hereinafter, "IPC"), by the Learned Judicial Magistrate (1st Class), Gangtok, Sikkim, vide Judgment dated 26-02-2024 and Order on Sentence dated 26-02-2024, in GR Case No.280 of 2021 (*State vs. Dinesh Ahirwar*).

2. It is the Petitioner's case that he was granted bail, vide Order dated 27-11-2024 by the Learned Sessions Judge, who afforded him sixty days time to surrender before the Learned Trial

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Court to undergo the sentence. That, he has however filed a Revision Petition and the instant application seeking suspension of the sentence and enlargement on bail before the expiry of the said sixty days. That, he has filed a Criminal Revision Petition before this Court challenging the legality and correctness of the conviction and sentence imposed on him.

(i) It is submitted by Learned Senior Counsel for the Petitioner that the Revision Petition raises substantial legal issues regarding the correctness of the Learned Trial Court's findings and the procedural fairness. Besides, the Petitioner has a wife who is four months pregnant and dependent on him for her daily needs including medical care and emotional support. Should he be incarcerated, his wife would suffer for no fault of hers. That, the Petitioner, an Assistant Professor in the Sikkim University is a regular employee and will not abscond or misuse the liberty granted by this Court, if enlarged on bail. Hence, the prayers be granted.

3. Learned Public Prosecutor for the State-Respondent objected to the Petition for bail on grounds that, it is nowhere mentioned that the Petitioner is a resident of Sikkim. If enlarged on bail there is every likelihood that his appearance will not be secured and hence, the Petition under Section 397(1) of the Cr.P.C. be rejected.

4. Heard submissions advanced by both Learned Counsel. I have given due consideration to the grounds put forth. During the course of the trial, the Petitioner was on bail and did not abscond. Considering the facts and circumstances placed before me, I am of the considered view that this is a fit case where the Petitioner can be enlarged on bail.

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5. It is accordingly ordered that the Petitioner be enlarged on bail, subject to the following conditions;

- (i) *He shall furnish PB&SB of ₹ 20,000/- (Rupees twenty thousand) only, each, with one solvent surety, to the satisfaction of the Learned Sessions Judge, Gangtok, Sikkim.*
- (ii) *He shall, however, not leave the station without the prior permission of the Learned Sessions Judge, Gangtok, Sikkim.*
- (iii) *He shall appear before this Court on all dates fixed.*
- (iv) *Should the Petitioner fail to report to this Court on the dates fixed, his bail bonds stand cancelled and he shall be taken into custody forthwith.*

6. Sentence imposed by the Learned Judicial Magistrate and upheld by the Learned Sessions Judge [under Section 354D of the IPC, as detailed (*supra*)], stands suspended till further orders of this Court.

7. The observations made hereinabove while disposing of this Petition, shall in no manner be construed as findings on the merits of the Revision Petition.

8. I.A. No.01 of 2024 is allowed and disposed of accordingly.

9. A copy of this Order be remitted to the Learned Courts below.

(Meenakshi Madan Rai)
Judge

11-12-2024