

THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Appellate Jurisdiction)

DATED : 28th May, 2024

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

I.A. No.02 of 2024 in Crl. A. No.10 of 2024

Appellant/Petitioner : Ranjit Ghimirey

versus

Respondent : State of Sikkim

Application under Section 389 read with Section 482
of the Code of Criminal Procedure, 1973

Appearance

Mr. R. C. Sharma, Advocate for the Appellant/Petitioner.

Mr. S. K. Chettri, Additional Public Prosecutor for the State-
Respondent.

ORDER (ORAL)

Meenakshi Madan Rai, J.

1. I.A. No.02 of 2024 is an application under Section 389 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter, the "Cr.P.C."), filed by the Petitioner/Convict seeking suspension of sentence and release on bail, till the final disposal of the Appeal.

2. Learned Counsel for the Petitioner submits that the Petitioner was enlarged on bail vide Order dated 10-10-2022, in ST (VIG) Case No.02 of 2019, (*State of Sikkim vs. Ranjit Ghimirey and Others*), by the Court of the Learned Special Judge, P.C. Act, East Sikkim, at Gangtok. The bail was granted by imposing certain terms and conditions. Thereafter, during the course of trial, the Petitioner consistently attended the Court proceedings without violating any terms and conditions laid down in the bail order, by the Learned Trial Court. That, on completion of trial, he was convicted vide the Judgment in ST (VIG) Case No.02 of 2019,

(*State of Sikkim vs. Ranjit Ghimirey and Others*), dated 21-02-2024, for the offences punishable under Sections 468, 471, 420 read with Section 34 and Section 120B(2) of the Indian Penal Code, 1860. He was sentenced to undergo simple imprisonment for a term of three years under each of the Sections that he was convicted for, along with direction to pay a fine of ₹ 10,000/- (Rupees ten thousand) only, each, under each of the convicted Sections. A default clause of imprisonment on non-payment of fine was also imposed.

(i) Thereafter, he was enlarged on bail by the Learned Trial Court in terms of Section 389(3) of the Cr.P.C.

(ii) An Appeal against the impugned Judgment was filed before this Court which was admitted, however, the petition for suspension of sentence and enlargement of the Petitioner on bail was rejected, vide Order of this Court dated 26-04-2024 in I.A. No.01 of 2024, in CrI. A. No.10 of 2024, *inter alia* on grounds that the Petitioner/Convict had flouted the order of the Learned Trial Court with impunity, as sixty days allowed to him to file the Appeal and obtain bail from the Appellate Court was not adhered to and he continued to remain at large for almost sixty-six days.

(iii) It was submitted by Learned Counsel for the Petitioner, the circumstance arose out of the Learned Counsel for the Petitioner being remiss and the fault was not that of the convict, who is aged about 51 years and suffering from various ailments. That, the Petitioner is a Sikkimese with his home and hearth in Soreng, and there is no risk of him violating the terms and conditions, if enlarged on bail, as his exemplary conduct before the Learned Trial Court would reveal. That, he is a respectable citizen

and has no reason to abscond. That, in fact, his detention in prison would prejudice his family as he has a school going son and wife, who is alone after the incarceration of the Petitioner. They are both dependent on the Petitioner. That, he is a patient of hypertension on medication and due to increased stress arising from the incarceration could suffer serious medical complications. Hence, the Petition be considered sympathetically on the grounds raised and the Petitioner be released on bail pending the Appeal and his sentence be suspended accordingly.

3. Learned Additional Public Prosecutor submits that he has no objection to the petition as the grounds advanced by the Learned Counsel are reasonable and the Petitioner is ailing and on medication, which may also be duly considered. That, the Petitioner is a respectable citizen and his family are dependent upon him, besides, admittedly, it is the fault of the Counsel for not taking timely steps in filing the petition under Section 389 of the Cr.P.C. and the Appeal. That, he be enlarged by imposition of certain conditions.

4. I have heard and considered the grounds put forth by Learned Counsel for the parties. I have considered the conduct of the Petitioner during the period when he was on bail before the Learned Trial Court, his medical condition supported by documents and his age.

5. In view of the said grounds, I am of the considered opinion that this is a fit case where the Petitioner can be enlarged on bail subject to the following conditions;

- (i) He shall furnish PB&SB of ₹ 25,000/- (Rupees twenty-five thousand) only, each, with one solvent surety, to the

satisfaction of the Learned Court of the Special Judge, P.C. Act, East Sikkim, at Gangtok.

- (ii) He shall, however, not leave the State without the prior permission of the said Court.
- (iii) He shall appear before this Court on all dates fixed for hearing of the Appeal.
- (iv) Should he fail to report to this Court on the dates fixed, his bail bonds shall stand cancelled and he shall be taken into custody forthwith.

6. Sentence imposed by the Learned Trial Court against the Petitioner, vide the impugned Order on Sentence dated 21-02-2024, accordingly stands suspended till further orders.

7. The observations made hereinabove are only for the purposes of the instant I.A. and shall in no manner be construed as findings on the merits of the Appeal.

8. I.A. No.02 of 2024 is allowed and disposed of accordingly.

9. A copy of this Order be forwarded to the Learned Trial Court immediately for information and compliance.

10. Copy of this Order also be forwarded to the Jail Authority at the Central Prison, Rongyek, by e-mail for information and necessary steps along with a soft copy to the Jail Superintendent for making it over to the Petitioner/Convict.

(Meenakshi Madan Rai)
Judge

28-05-2024