

SUPREME COURT OF INDIA
Bench: JUSTICE SURYA KANT and JUSTICE DIPANKAR DATTA
Date of Decision: 03-10-2023

Criminal Appeal No(s).1686/2022

(I.A NO. 169487/2023 (APPL. FOR SUSPENSION OF SENTENCE)

CRL.A.NO. 1687/2022) WITH

Crl.A. No. 1687/2022 (II-C)

KHADAK PRASAD

Appellant(s)

VERSUS

STATE (NCT OF DELHI) & ANR.

Respondent(s)

Sections, Acts, Rules, and Article:

Sections 302, 120B, and 201 of IPC (Indian Penal Code)

Subject: Suspension of Sentence in a Criminal Appeal involving charges of conspiracy and murder.

Headnotes:

Criminal Appeal – Suspension of Sentence – Applicant seeks suspension of sentence during the pendency of the Criminal Appeal – Conviction for conspiracy and murder – Alleged conspiracy to eliminate the deceased – Conviction under Sections 302, 120B, and 201 IPC – High Court's dismissal of the appeal – Co-accused granted benefit of doubt – Applicant's custody period and medical issues concerning his daughter considered – Sentence suspended, and the applicant directed to be released on bail. [Para 1-6]

Referred Cases: None.

O R D E R

IA No.169487/2023 In Crl.A.No.1687/2022

1. The applicant/appellant seeks suspension of sentence during the pendency of the Criminal Appeal before this Court.
2. The applicant/appellant was tried along with Prabha and Sunil for hatching a conspiracy and committing murder of Rakesh, husband of Prabha.
3. The prosecution case was that Prabha was allegedly having an affair with the applicant/appellant and in order to eliminate the deceased, she

conspired with the appellant and Sunil. On 06.05.2011, Prabha called the deceased at her parental house where some intoxicating material was mixed in the soft drink and given to the deceased. After consuming the same, he fell in deep sleep at her house and subsequently on Prabha's instructions, the appellant and Sunil came and strangled the deceased.

4. The Trial Court convicted the applicant/appellant along with his co-accused under Sections 302, 120B and 201 IPC and sentenced them to life imprisonment. All the three accused persons preferred appeal before the High Court. Vide the impugned judgment dated 24.10.2019, the High Court dismissed the appeal of the applicant/appellant and his co-accused Sunil but Prabha was granted benefit of doubt and, consequently, her appeal was allowed and the order of conviction and sentence against her was set aside.

5. As per the Custody Certificate placed on record, the applicant/appellant has undergone actual sentence of 10 years and 9 months. It further appears from the documents on record that the newly born daughter of the applicant/appellant has some breathing issue and requires medical care. The final hearing of the Criminal Appeal preferred by him will take some time.

6. Taking into consideration all the attending circumstances but without expressing any views on the merits of the case, the application is allowed and the sentence awarded to the applicant/appellant is suspended and he is directed to be released on bail on his furnishing bail bonds to the satisfaction of the Trial Court.

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