

Afroz vs State (Govt. Of Nct Of Delhi) on 22 October, 2020

Author: J.R. Midha

Bench: J.R. Midha

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL. A. 1136/2019

AFROZ

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Through: Mr. Ashu Ku
Sharma, Adv

Versus

STATE (GOVT. OF NCT OF DELHI)

....

Through: Ms. Aasha T
APP for Sta

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

% 22.10.2020

1. The hearing has been conducted through video conference.

CRL.M.(BAIL) 8028/2020 (interim suspension of sentence)

2. This application under Section 389 Cr.P.C. read with Section 482 Cr.P.C. is moved seeking interim suspension of sentence of the appellant for one month for taking care of her mentally retarded minor son.

3. It is submitted that appellant has already undergone about three years and nine months in custody. Petitioner is 55 years old, having six children. Her three daughters are married and living with their husband. Her one son namely Abdul Laeek is convicted in the present FIR and is lodged in jail. His second son namely Abdul Salman is a drug addict and third son namely Abdul Shahruxh is minor and mentally retarded. It is submitted that since husband of the petitioner i.e. Abdul Haneef and eldest son Abdul Laeek are also in judicial custody in the present case therefore, there is no one in the family to look after her minor child. Learned counsel has, therefore, prayed for interim suspension of sentence for one month, in the interest of justice.

4. Learned Additional Public Prosecutor for the State has opposed the application. It is submitted that allegations against the appellant are serious in nature. It is, therefore, prayed that the application be dismissed.

5. We have considered the rival submissions. The appellant is seeking interim suspension of sentence to look after her mentally retarded minor son. As per status report, it stands verified that appellant is having three daughters and three sons. All three daughters of appellant are married and living with their husband. It also stands verified that eldest son namely Abdul Laeek is in judicial Custody in the same case along with the petitioner and second son Abdul Salman is a drug addict. The youngest son of the appellant namely Abdul Shahrukh is mentally ill and is being taken care of by her Aunt Nagma who is also a single mother having two minor children namely Abdul Ayan and Ikra. As per nominal roll dated 17th October, 2020, the appellant has already undergone about three years and eight months in custody and her conduct in jail is also satisfactory.

6. In view of the above facts which stand verified, the sentence of the appellant is suspended for a period of one month from the date of her release on her furnishing a personal bond in the sum of Rs. 25,000/-

before the concerned Jail Superintendent, subject to the following conditions:-

I. The appellant shall contact the concerned SHO of P.S. Welcome, through Mobile phone on every Monday during the period of her release;

II. The appellant shall provide a mobile phone number to concerned SHO of P.S. Welcome and to the concerned Jail Superintendent, which shall be kept in working condition at all times and shall not be changed without prior intimation to the Court.

III. The appellant shall not contact or extend any threat or cause any harm to any of the witnesses or family members of the deceased.

IV. The appellant shall duly surrender at the end of the suspension period, and V. Surety of the same amount i.e. Rs. 25,000/- shall be furnished by the appellant as and when the learned trial court resumes its normal functioning. However, if the period of interim suspension of sentence expires before the learned Trial Court starts/resumes its normal functioning and the applicant surrenders, then there would be no need to furnish the surety.

7. The application stands disposed of accordingly.

8. A copy of this order be sent to the concerned Jail Superintendent via electronic mode.

9. List in due course on its own turn in the category of 'Regulars'.

10. The order be uploaded on the website of this court forthwith.

J.R. MIDHA, J BRIJESH SETHI, J OCTOBER 22, 2020 AK