

Rahul Gupta vs The State on 27 August, 2020

Author: J.R. Midha

Bench: J.R. Midha

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL. A. 1200/2019

RAHUL GUPTA

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Through: Mr. Siddharth Aggarwal,
Dewan, Mr. Arjun Mukherj
Sowjhanya Shankaran and
Shahryar Khan, Advocates

Versus

THE STATE

....

Through: Ms. Asha Tiwari, APP for

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

% 27.08.2020

1. The hearing has been conducted through video conference. CRL.M.A. 11712/2020 (Exemption)
 2. Allowed, subject to all just exceptions with the condition that as and when the Courts resume normal working, the attested affidavits will be filed within 05 days.
 3. Application is accordingly disposed of.
- CRL.M.(BAIL) 7615/2020 (Interim Suspension of sentence)
4. This is an application filed by the appellant under Section 389 Cr.P.C. read with Section 482 Cr.P.C. seeking interim suspension of sentence for 12 weeks on the ground of COVID-19 pandemic and to take care of his old widowed mother.
 5. It is submitted that appellant is in custody since 24 th October, 2010 and has spent 9 years and 10 months in jail. Appellant is the eldest male member in the family and during this COVID-19 pandemic, appellant wants to take care of his old widowed mother. It is further submitted that the conduct of the appellant in jail has been acknowledged and appreciated by the concerned jail authorities. While in custody, appellant has received numerous appreciation letters dated 1st May,

2017; 15th August, 2019; and 26th January, 2020 from the Jail Superintendent for his good conduct, hard work and meritorious services from time to time. Appellant has also been actively involved in various activities organized in Tihar Jail for inmates. Learned Counsel has, therefore, prayed for interim suspension of sentence for 12 weeks in the interest of justice.

6. Learned Additional Public Prosecutor for the State has opposed the application on the ground that offence committed by the appellant is heinous in nature. It is, therefore, prayed that application of the appellant for interim suspension of sentence be dismissed.

7. We have considered the rival submissions. The appellant has been convicted by the learned Trial Court in present FIR bearing No.256/2010 for the offence punishable under Sections 364-A/302/201/120-B IPC, P.S. Vikaspuri, Delhi vide judgment dated 17th July, 2019. He is in jail for the last about nine years and ten months. Appellant is seeking interim suspension of sentence to look after his widowed mother and also because of Covid-19 Pandemic. As per nominal roll dated 27th July, 2020, the conduct of the appellant in jail is satisfactory. Documents relating to conduct of the appellant dated 1st May, 2017; 15th August, 2019; and 26th January, 2020 issued by Jail Superintendent, Tihar Jail No. 7, Delhi runs as follows:-

"TO WHOM IT MAY CONCERN It is certified that Rahul Gupta S/o Raj Kumar Gupta is incarcerated in jail no. 7 as an under trial prisoner since 04.11.2010. He is willingly working as typist and doing clerical work in undertrial and convict office of this jail. He has worked as para-legal volunteer and assisted the prisoners about their Right to Free Legal Aid. He is assisting the Jail Administration since long. He has never given a single chance of complaint and his punishment during this incarceration period is NIL. He is polite in nature and his work and conduct is very good. He has good knowledge of English language and official work.

I am giving this appreciation letter for his good work and wish him a bright future.

(RAKESH KUMAR) Superintendent, Central Jail No.7, Tihar, New Delhi.

***** GOVT OF NCT OF DELHI OFFICE OF THE SUPERINTENDENT OF PRISON Central Jail No 7, Tihar, New Delhi-110064 "APPRECIATION LETTER"

This certificate is awarded to under trial prisoner namely Rahul Gupta S/o Lt Sh. Raj Kumar Gupta in appreciation of his good conduct, hard work and meritorious service in Under trial & Convict Section of Central Jail No. 7 with sincerity and helping the Jail Administration in other office related works as well. This appreciation is awarded to him for his excellent services on 15 August 2019. We wish him Best of Luck.

Superintendent, Central Jail No.7, Tihar, New Delhi.

***** GOVT OF NCT OF DELHI OFFICE OF THE SUPERINTENDENT OF PRISON Central Jail No 7, Tihar, New Delhi-110064 Ph. No: 011 -28522109 email:scj7-tihar@nic.in "APPRECIATION

LETTER"

This certificate is awarded to Rahul Gupta S/o Late Sh. Raj Kumar in appreciation of his good conduct, hard work and excellent services in Ct Office of Central Jail No-07 with sincerity and helping the Jail Administration in other related works as well. This appreciation is awarded to him on 26th January, 2020 for his excellent services.

Superintendent, Central Jail No.7, Tihar, New Delhi."

8. Keeping in mind the fact that appellant is in jail for the last about nine years and ten months and his conduct in jail is good and he has been given appreciation letters by Jail Superintendent, the sentence of the appellant is suspended for a period of two months from the date of his release on his 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. Vikas Puri, in person, on every Monday during the period of his release;

II. The appellant shall provide a mobile phone number to concerned SHO of P.S. Vikas Puri 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.

V. The appellant shall not leave the jurisdiction of NCT of Delhi.

VI. 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 appellant surrenders, then there would be no need to furnish the surety.

9. The application stands disposed of accordingly.

10. However, it is made clear that this order shall not be used as a precedent for obtaining bail by the other co-convicts.

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

CRL.M.(BAIL) 7609/2020 (Suspension of sentence)

12. Re-notify on 15th October, 2020.

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

J.R. MIDHA, J.

BRIJESH SETHI, J.

AUGUST 27, 2020/AK