

Rohit Gupta Alias Gulshan vs State on 18 May, 2020

Author: Siddharth Mridul

Bench: Siddharth Mridul, Talwant Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.A. 302/2020

ROHIT GUPTA alias GULSHAN Appellant
Through: Mr. Harsh Prabhakar, Advocate

versus

STATE Respondent
Through: Mr. Ravi Nayak, APP

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH
ORDER

% 18.05.2020 The present appeal has been taken up for hearing by way of Video Conferencing on account of lockdown due to COVID-19. CRL.M.A. 6489/2020 (Exemption) Exemption allowed, subject to all just exceptions. The application is disposed of accordingly. CRL.M.A. 6487/2020 (Condonation of Delay) The present application under Section 5 of Limitation Act, 1963 read with Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), has been instituted on behalf of the applicant/appellant seeking condonation of delay of 75 days in filing the instant appeal.

For the reasons stated in the application, which are duly supported by an affidavit and in view of the circumstance that the applicant/appellant is incarcerated, the same is allowed. The delay of 75 days in filing the accompanying appeal is condoned.

The present application is disposed of accordingly.

Issue notice.

Mr. Ravi Nayak, learned APP accepts notice on behalf of the official respondent.

Admit.

Trial Court Record be requisitioned so as to be available before this Court on or before the next date of hearing.

The Registry is directed to prepare the appeal paper book and copies thereof be provided to learned counsel appearing on behalf of the parties.

List in due course.

CRL.M.(BAIL) 6297/2020 (Suspension of Sentence) The present application under Section 389 of the Cr.P.C. has been filed on behalf of the applicant/appellant seeking regular suspension of sentence till the final disposal of the accompanying appeal.

In view of the circumstance that there is also an application seeking interim suspension of sentence and release on bail preferred by the applicant/appellant, he does not press this application seeking regular suspension of sentence and release on bail during the pendency of the appeal at this stage.

The application dismissed as not pressed and disposed of accordingly.

CRL.M.A.6488/2020 (Interim Suspension of Sentence) The present application under Section 389 read with Section 482 of the Cr.P.C. seeks interim suspension of sentence and release on interim bail inter alia on medical grounds for a period of three months.

Issue notice.

Mr. Ravi Nayak, learned APP accepts notice on behalf of the official respondent.

A perusal of the medical record qua the applicant/appellant Rohit Gupta alias Gulshan reflects that he is suffering from "Cancer" (CA Left Buccal Mucosa) and he is currently undergoing treatment at All India Institute of Medical Sciences, New Delhi.

A perusal of the Nominal Roll qua the applicant/appellant further reflects that he has been incarcerated for a period of 5 years and 6 months. The applicant/appellant is a permanent resident of House No.17B, Golden Enclave, Ranaji Enclave, Part-I, Najafgarh, Delhi and his family currently resides at this address. The Nominal Roll of the applicant/appellant further certifies that, he is not allotted any work in the jail since he is 'unfit to do any work'.

Mr. Prabhakar, learned counsel appearing on behalf of the applicant/appellant invites our attention to the circumstance that he was previously released on interim bail by the learned trial court and during the said period he did not misuse the liberty granted to him on that occasion. His overall jail conduct is satisfactory.

We also observe that the applicant/appellant has a family comprising old aged ailing parents, one minor son and a daughter about 18 years of age; however, the marriage of the applicant/appellant has been dissolved by virtue of decree of divorce and the applicant/appellant was granted the custody of both of his children. Both the children of the applicant/appellant are dependent upon his parents for their survival and education, in the absence of their only guardian.

In view of the foregoing, we are of the view that the present application should be allowed in the interest of justice so as to ensure that the applicant/appellant receives the requisite medical care and attention that he requires for his serious ailment. The present application is accordingly allowed and the sentence awarded to the applicant/appellant is suspended for a period of 90 days from the date of his release on bail, subject to the following conditions:

1. The applicant/appellant shall be released on bail for the said period on his furnishing a Personal Bond in the sum of Rs.10,000/- with one surety of the like amount, to the satisfaction of the trial court/duty Magistrate.
2. The applicant/appellant shall provide the concerned SHO with his mobile telephone number, which he undertakes to keep operational, during the period of interim bail.
3. The applicant/appellant shall not leave the jurisdiction of National Capital Territory of Delhi without prior permission of this Court.
4. That the applicant/appellant shall report to the SHO of the concerned Police Station - Dwarka (North) on every Monday at 11:00 a.m. during the pendency of interim suspension of sentence.
5. The applicant/appellant shall surrender before the jail authorities, after the expiry of the period of interim suspension of sentence and release on bail, without demur.

With the above directions, the application is allowed and disposed of accordingly.

A copy of this order be uploaded on the website of this Court forthwith. A copy of this order be also provided by email to learned counsel appearing on behalf of the applicant/appellant, as well as, the learned APP for the State.

A copy of this order be also sent electronically to the Superintendent, Central Jail, Tihar for necessary information and compliance.

SIDDHARTH MRIDUL, J TALWANT SINGH, J MAY 18, 2020 dn/as