

Dharmendra @ Bhanja vs The State Of Madhya Pradesh on 6 May, 2021

Author: Sheel Nagu

Bench: Sheel Nagu

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The High Court of Madhya Pradesh
Cra-10214-2019
(Dharmendra @ Bhanja Vs. State of M.P.)
Jabalpur, dated :06/05/2021

None for the appellant.

Shri Sanjay Malviya, learned Panel Lawyer, for respondent/State.

Learned counsel for the State is heard through Video conferencing. I.A.3720/2021, third repeat application for suspension of sentence moved on behalf of sole appellant Dharmendra @ Bhanja u/Sec. 389(1) Cr.P.C. is taken up and considered along with reply of the State.

This criminal appeal assails the judgment dated 07/11/2019 passed in ST No.32/2018 by II Additional Sessions Judge, Bina, District Sagar, (M.P.), whereby sole appellant- Dharmendra @ Bhanja has been convicted as under :

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Sections	Imprisonment	Fine
392 of IPC	5 years' R.I.	Rs.1000/- with default stipulation.

Learned counsel for the State opposed the appeal and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

It is submitted that the sole appellant-Dharmendra @ Bhanja has suffered more than 1½ years of incarceration as against 5 years' RI awarded for the offence of robbery.

The decision of the Apex Court in the case of Kamal Vs. State of Haryana reported in 2006(1) SCC(Cri) 757 has been pressed into service which lays down that in matters where fixed period of sentence is awarded. The ratio of the said judgment has been reiterated in Salim Javed Vs. State of Rajasthan reported in 2006 (9) SCC 602.

Hence, sole appellant- Dharmendra @ Bhanja can be released on bail after undergoing substantial period of sentence Considering the substantial period of sentence suffered by the sole appellant-Dharmendra @ Bhanja and further looking to the fact that there is no likelihood of early disposal of the appeal in near future and considering the changed scenario in view of the Covid-19 pandemic, this Court is inclined to grant bail to sole appellant-Dharmendra @ Bhanja by way of suspension of sentence.

Accordingly, without expressing any opinion on merits, I.A.3720/2021 is allowed and it is directed that the jail sentence of sole appellant- Dharmendra @ Bhanja will remain under suspension subject to verification that the amount of fine has been deposited, on the appellant's furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties of the like amount to the satisfaction of concerned CJM/available Magistrate for his appearance before the concerned CJM/available Magistrate on 17/11/2021 and on such further dates as may be fixed by him which shall be of frequency not less than once a year.

In case, appellant is found absent on any date fixed by the concerned CJM/Magistrate then the said CJM/Magistrate shall be free to issue and execute warrant of arrest for securing his presence without first referring the matter to this Court, provided the Registry of this Court is kept informed.

The learned concerned CJM/Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the appellant during period of suspension of sentence as a consequence of this order.

A copy of this order be sent to the Court concerned for information. C.c as per rules.

(Sheel Nagu) Judge (suneel) SUNEEL Digitally signed by SUNEEL DUBEY DN: c=IN, o=HIGH COURT OF MADHYA PRADESH BENCH GWALIOR, ou=HIGH COURT OF MADHYA PRADESH BENCH GWALIOR, postalCode=474011, st=Madhya Pradesh, DUBEY

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