

OFFICE OF THE ADDITIONAL SESSIONS JUDGE, KURSEONG
DARJEELING

Crl Appeal No. 01 of 2024.

{Arising out of the Judgement and sentence dt. 14th May 2024 passed in connection with Gr Case No. 218(1) of 2018, corresponding to Ksg PS Case No. 175/2018 dt. 22.10.2018}

Dinesh Giri-Appellant/Convict

Vs

State of West Bengal.

Order No. 01.
Dt. 07.06.2024.

Convict Dinesh Giri files memo of appeal U/s 374 CrPC against the judgement and sentence dt. 14th May 2024 passed by the Ld. ACJM in connection with the case in caption praying for setting aside the judgement and sentence on the grounds stated therein.

Memo of appeal is accompanied with certified copy of the impugned judgement, order of sentence, deposition of all the witnesses and other documents of the LCR.

Appellant / Convict is present.

He also files two separate petitions praying for allowing him to remain in the same bail as granted by the Ld. ACJM on 14.05.2024 and also prays for stay of the sentence.

Convict's both the petitions are taken up for hearing.

Ld. Lawyer for the appellant submits that the appellant never misused the liberty as granted by the Ld. Court below and he shall abide by the direction as may be given by this Court.

Ld. Lawyer for the appellant while moving the stay petition submits that the Ld. Court below while convicting the appellant did not consider the case law as relied upon by him as well as it did not consider the evidence of the seizure witness in proper sense and prays for stay of sentence till disposal of instant appeal.

Perused the certified copy of the impugned judgement as well as the evidence of the prosecution witnesses.

Considered.

After having gone through the same I find that the appellant was convicted for the offence U/s 392/411 of the IPC and is sentenced to suffer SI for 6 months for the offence U/s 392 IPC and SI for 3 years and to pay fine of Rs. 3000/- for the offence U/s 411 IPC id to further SI for 3 months.

At present there is not material before this Court which debars the appellant convict from enjoying the bail as granted by the Ld. Trial Court U/s 389 CrPC and accordingly he is allowed to remain in the same bail till production of the LCR and also considering the materials of the LCR, I find no reason not to stay the sentence as awarded by the impugned judgement. Thus operation of sentence is stayed till disposal of instant appeal.

Call for LCR at once.

Issue notice upon the State through DM Darjeeling.

Requisite be put forthwith by the appellant.

To **06.07.2024** for S/R of notice, LCR and appearance of the appellant convict.

Let a copy of this order be sent to the Court of Ld. ACJM as well as to the DM Darjeeling for information and necessary action from their end.

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D/c by me

.....sd/-.....
Addl.Sess Judge, Kurseong.