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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 1475/2019

SHRI VIKRAM SINGH

Through

..... Appellant
Mr. Ashwin Viash with Mr. Vinod
Pandey, Advs.

versus

CBI

Through

..... Respondent
Mr. Ripu Daman Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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07.01.2020

CRL.A. 1475/2019

Admit.

List in due course.

CRL.M.(BAIL) 2268/2019

Vide the present application, the applicant/appellant seeks direction thereby to suspend the execution of order on sentence dated 19.12.19 imposed upon the appellant by the Court of Learned Special Judge, P C Act, CBI-14, Rouse Avenue Court Complex, New Delhi and order for the release of the Petitioner on bail.

The present application is filed on the ground that judgment of conviction dated 18.12.2019 has been passed without application of mind and the same is evident from a perusal of para 39 to 41 of the judgment, wherein the trial court accepts that the CBI has not followed its own manual

in failing to video record the proceedings. However, the trial court overlooks its significance to the prejudice of the defence/appellant, especially when it is the case of the appellant that the place of recovery did not belong to him but to his relative.

The trial court while sentencing the appellant wrongly resorted to retrospectively applying harsher punishment provisions, which came into force on 16.01.2014 for alleged commission of offence of acquiring disproportionate assets in the sum of ₹30,67,679 during the check period 01.04.1990 to 31.01.2012.

On the other hand, learned counsel appearing on behalf of the respondent has opposed the present application and submits that an amount of ₹32 lacs was seized from the appellant and the trial Court has rightly convicted for the offences committed by the appellant.

On perusal of the order on sentence, the learned trial Court recorded in para 9 that Section 13 (2) of P C Act, was substituted by Act 1 of 2014, which came in affect from 16.01.2014, FIR [RC 22 (A)/2014], in this case was registered on 03.07.2014 on the basis of preliminary inquiry bearing No. 02A/2014. Thus provisions before amendment Act 1 of 2014 will not be applicable. Accordingly, petitioner is sentenced to undergo RI for 4 years and a fine of Rs. 2 Lakhs. In absence of payment of fine, the convict shall undergo Simple Imprisonment for 1 more year.

The Hon'ble Supreme Court in the case of ***Ravinder Singh Vs. State of Himachal Pradesh AIR 2010 SC 199*** held that *“the sentence imposable on the date of commission of the offence has to determine the sentence imposable on completion of trial.”*

It is not in dispute that the petitioner remained on bail during trial

except two months initial custody, thereafter vide judgment on conviction the petitioner is in jail since 18.12.2019.

However, without commenting on the merits of the appeal, I hereby suspend the sentence till disposal of the appeal.

Accordingly, the applicant shall be released on bail on his furnishing personal bond in the sum of ₹25,000/- with two sureties of the like amount to the satisfaction of the Trial Court.

The applicant shall not involve himself in any other case and in the event of any report against him, this Court would consider the desirability of cancelling the suspension of sentence. The appellant shall also ensure his presence at the time of hearing of the appeal.

The application is allowed and disposed of.

Order *dasti* under the signatures of Court Master.

Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

SURESH KUMAR KAIT, J

JANUARY 07, 2020

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