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

+ **CRL.A. 356/2016**

SUNIL @ SUNIL SHARMA

..... Appellant

Represented by: None

versus

DIRECTORATE OF REVENUE INTELLIGENCE Respondent

Represented by: Ms. Pooja Bhaskar, Adv. for Mr.
Satish Aggarwala, Adv.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

13.02.2019

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Crl.M.A. 3844/2018

1. Appellant has been convicted for offence punishable under Section 21 NDPS Act and was awarded sentence of rigorous imprisonment for a period of 10 years. During the pendency of the present appeal the appellant applied for interim suspension of sentence for a period of four weeks to look after his ailing wife and the minor daughter which was granted for a period of two weeks starting from 26th July, 2016 with directions that if the surgery does not take place on 28th July, 2016 he would surrender.

2. Appellant filed another application being Crl.M.A. 12021/2016 seeking extension of interim suspension of sentence wherein this Court vide order dated 5th August, 2016 directed that the appellant shall not surrender till the next date of hearing i.e. 11th August, 2016 subject to compliance of terms and conditions as imposed therein. Again on 11th August, 2016 this

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Court granted extension of interim bail for a period of four weeks from 11th August, 2016 on the same terms and conditions as noted earlier. No further extension of interim suspension of sentence was granted to the appellant.

3. Since on an application filed by the respondent none was appearing on behalf of the appellant, this Court was constrained to seek production of the appellant before this Court. Thus, vide order dated 25th January, 2019 this Court directed Superintendent Tihar Jail to produce the appellant in this Court on 13th February, 2019 i.e. today.

4. A report has been received from Superintendent Central Jail No.1 which reads as under:

“Sub: Regarding the production warrant for Sunil @ Sunil Sharma S/o Lt. Sh. Surender Mohan in connection with case SC No.38A/12 registered at PS-DRI, u/s 21 NDPS Act.

Hon’ble Sir/ Madam,

This is in reference to the production warrant issued by the Hon’ble High Court of Delhi, sent to this office vide endorsement No. 4020/Crl dated 28.01.2019 whereby this office has been directed to produce the inmate Sunil @ Sunil Sharma S/o Surender Mohan on 13.02.2019 in connection with the above mentioned case.

In this regard, it is submitted that the said convict was released from this jail on interim bail on 26.07.2016 by the Hon’ble High Court of Delhi, the order was received in this office vide End. No. 23984/Crl dated 23.07.2016 and accordingly the said convict was required to surrender on 08.08.2016. The interim bail was extended till 11.08.2016 by the Hon’ble High Court of Delhi, the order was received in this office vide end. No.26483 dated 06.08.2016. The interim bail was further extended by the Hon’ble High Court of Delhi for a period of 04 weeks and accordingly, the convict was required to surrender on 12.08.2018.

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The convict did not surrender even after the expiry of the period of interim bail. The said convict has not surrendered till date and the intimation of his non-surrender has been given to the concerned authorities. Therefore, this office will be unable to produce the said convict in the above said case on 13.02.2019.

Submitted for information please

Yours faithfully

*Superintendent
Central Jail No.
Tihar, New Delhi”*

5. It is apparent that after the order dated 11th August, 2016 no further order extending the interim suspension of sentence was received by the Superintendent Tihar Jail. However still no intimation was sent to this Court that the appellant has not surrendered nor any action taken in this regard. The report also does not state as to what efforts were made to seek arrest of the appellant as he had not surrendered in time.

6. Superintendent Central Jail No.1, he is directed to be present in Court with an explanation why intimation of non-surrender of the appellant was not given to this Court and on what basis the Superintendent Central Jail No.1 comes to the conclusion that the appellant was required to surrender on 12th August, 2018 whereas as per the calculation of this Court as well as learned Additional Standing Counsel for the State the appellant was required to surrender after the expiry of four weeks from 11th August, 2016 i.e. 8th September, 2016.

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7. List on 18th February, 2019 when Superintendent Central Jail No.1 will be present in Court.
8. Copy of this order be communicated to Superintendent Central Jail No.1.

MUKTA GUPTA, J.

FEBRUARY 13, 2019
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