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

+ CRL.A. 1554/2014

MUKESH @ VICKY

.....Appellant

Through: Mr. Krishan Kumar and Mr. Shivam
Bedi, Advocates.

versus

STATE

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for the
State with SI Praveen Kumar, P.S.:
Kashmeri Gate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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09.12.2024

CRL.M.A. 36987/2024

By way of the present application filed under section 485 read section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the appellant seeks modification of order dated 08.01.2024, submitting that the condition of furnishing 01 surety in the sum of Rs. 25,000/- imposed while granting suspension of sentence to the appellant be modified and the appellant be released only on a personal bond.

2. Mr. Krishan Kumar, learned counsel appearing for the appellant submits, that as will be seen from Nominal Roll dated 03.11.2023 received from the concerned Jail Superintendent, as of that date, the appellant had already undergone 08 years 09 months and 12 days of the 10-year sentence awarded to him; and that therefore, as of today, the appellant has already undergone about 09 years and 11 months of the sentence.



3. Mr. Kumar submits, that it would also be appreciated, that despite being granted suspension of sentence *vide* order dated 08.01.2024, the appellant has still not been able to avail the benefit of that order since he has not been able to produce any surety.
4. Counsel further submits, that the appellant has two aged parents, who are both bed-ridden and therefore there is no one who can stand surety for the appellant.
5. Issue notice.
6. Mr. Sanjeev Sabharwal, learned APP appears on behalf of the State on advance copy; accepts notice; and submits, that since the appellant had been convicted under the provisions of the Narcotic Drugs and Psychotropic Substances Act 1985, which attract a minimum punishment of 10 years, no relief should be granted to him till he completes the entire sentence of 10 years.
7. Be that as it may, considering that the appellant has substantially completed the entire sentence of 10 years, and has evidently not been able to avail the suspension of sentence granted to him almost a year back *vide* order dated 08.01.2024, the said order is modified only to the extent that the appellant's sentence shall be suspended on furnishing a personal bond in the sum of Rs. 25,000/- *without* the requirement of producing any surety.
8. All other conditions imposed *vide* order dated 08.01.2024 shall remain as they are.
9. The application stands disposed-of in the above terms.



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10. In view of the above position, it is put to learned counsel for the appellant whether the appellant would want to avail the benefit of the directions of the Supreme Court contained in order dated 06.10.2021 made in SLP (Crl.) No. 529/2021 titled *Sonadhar vs. State of Chhattisgarh*; and would be willing to not press the present appeal on merits *if* he is released on the period already undergone (which is substantially the entire sentence awarded).
11. Mr. Kumar seeks time to take instructions in that regard.
12. For the above purpose, re-notify on 11th February 2025.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 9, 2024

V.Rawat