

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 220 of 2019

Bhuneshwar Prasad	...	Appellant
	Versus	
The Union of India through CBI	...	Respondent

Coram: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellant : Mr. Ramit Satender, Adv.
For the CBI : Mr. Rohit Sinha , Adv.

10 / 01.12.2020

Heard the parties through Video Conferencing.

Perusal of the record reveals that out of the common judgment, fifteen appeals including this appeal has been filed and the appellants of other 14 appeals are on bail. The appellant of this appeal along with co-convicts have been held guilty for offence punishable under Sections 420, 468, 471, IPC as well as Section 120B read with Sections 420, 468, 471 IPC read with Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988 and this appellant along with the co-accused persons were sentenced to undergo R.I. for one year and to pay a fine of Rs. 5,000/- each for the offence punishable under section 420 of IPC, further to undergo R.I. for one year and to pay a fine of Rs. 5,000/- each for the offence punishable under section 468 of IPC, further to undergo R.I. for one year and to a fine a Rs. 5,000/- each for the offence punishable under section 471 of IPC, further to undergo R.I. for one year and to pay a fine of Rs. 5,000/- each for the offence punishable under section 120B read with sections 420, 468, 471 IPC and Sections 13(2), 13(1) (d) of Prevention of Corruption Act, 1988.

After conviction, this appellant was taken into custody and later on, on the same day when they were sentenced i.e. on 30.01.2019, the appellant was released on provisional bail and his bail bond was accepted provisionally for one month from 30.01.2019 but when the Interlocutory Application was moved before this court on 12.06.2019, the predecessor Judge on 12.06.2019 passed an order that the period of one month granted

by the trial Court has already lapsed and did not confirm the provisional bail granted provisionally to the appellant after his conviction as by that date the time period of the provisional bail had expired and ordered that the appellant if so advised to surrender before the trial court and file the surrender certificate and directed the case to be listed after filing the surrender certificate. The appellant did not surrender before the trial court from 12.06.2019 to 31.08.2020 and the appeal was next placed before this court on 31.08.2020 as by that date, the appellant-convict had not surrendered and did not file the surrender certificate, report was called for from the trial court as to what step has been taken by the trial court for apprehension of the appellant-convict as the appellant-convict though was released on provisional bail on 30.01.2019 for thirty days, has not surrendered before the trial court and consequent upon that, the appellant-convict was arrested by police and was remanded to custody and he is undergoing the sentence. The prayer for suspension of sentence for the appellant-convict and to be released on bail has already been rejected vide order dated 30.09.2020.

Since out of the common judgment, fifteen appeals have been filed and in this appeal, the learned counsel for the appellant-convict has submitted that he is ready for hearing of this appeal while fourteen other appeals have been fixed after ten weeks after the lockdown is over as the last chance, hence, the question was framed by this court as to whether in case, from a common judgment, several appeals are filed and in one appeal, the appellant is ready for hearing whereas the other appeals have been fixed for some other day, whether the appeal in which, the appellant is ready for hearing, can be heard separately.

Mr. Ramit Satender, learned counsel for the appellant submits that though in Supreme Court, in Chapter 16 of the Hand Book of Practices and Procedure, it has been provided such appeals be heard and disposed of together but no such provision is there in the High Court of Jharkhand Rules, 2001. So this appeal can be heard separately.

Mr. Rohit Sinha, learned counsel for the CBI on the other hand, opposes the contention of Mr. Ramit Satender, the learned counsel for the appellant and submits that as in this case, the

appellant has been convicted *interalia*, for the offences punishable under section 120B IPC and if this court, confirms the conviction of the appellant also for the offences punishable under section 120B IPC, then the other appellants will certainly be prejudiced because a finding of this court will be against them without they being heard. Hence, it is submitted by learned counsel for the CBI that since the lockdown is almost over and the other appeals have been fixed for final hearing as the last chance after ten weeks, so this appeal also can be taken up after ten weeks after the lockdown is over along with **fourteen** other appeals arising out of the same common judgment. It is further submitted by learned counsel for the CBI that the appellant has been in custody because of his own laches as even he was directed to submit surrender certificate, he avoided to file surrender certificate for more than one year and two months and only after this court passed an order dated. 31.08.2020, he was arrested, hence, for such laches on his part, the appellant cannot seek the privilege of this appeal being heard and disposed of before the other appeals, which will prejudice the interest of appellants of other fourteen appeals.

I find force in the submission of the learned counsel for the CBI. Accordingly, let this appeal be heard along with other fourteen appeals, ten weeks after the lockdown is over, as the last chance.

(ANIL KUMAR CHOUDHARY, J.)

Smita/-

