

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.284 of 2019

Ramanand Ram @ Ramannand Ram Appellant
Versus
The Union of India through C.B.I. Respondent
With

Cr. Appeal (SJ) No.444 of 2019

Md. Ilyas Hussain @ Md. Illiyas Hussain
..... Appellant
Versus
The Union of India through Central Bureau of Investigation
..... Respondent
With

Cr. Appeal (SJ) No.458 of 2019

Dhudheshwar Nath Singh @ Dudheshwar Nath Singh
..... Appellant
Versus
The Union of India through CBI/ SPE/Ranchi
..... Respondent
With

Cr. Appeal (SJ) No.469 of 2019

Md. Sahabuddin Baig Appellant
Versus
The Union of India through C.B.I./ SPE, Ranchi
..... Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellants : Mrs. J. Mazumdar, Advocate
Mr. Anil Kr. Sinha, Sr. Advocate
Mr. Kripa Shankar Nanda, Advocate
Mr. Jitendra S. Singh, Advocate
For the C.B.I. : Mr. Prashant Pallav, A.S.G.I.

Order No.26 Dated- 18/11/2022

I.A. No.7171 of 2022 in Cr.Appeal (SJ) No.469 of 2019

Heard the parties.

2. Learned counsel for the applicant-appellant submits that this

interlocutory application has been filed with a prayer to suspend the sentence and grant of ad interim bail during the pendency of the instant appeal. It is next submitted that the self-same prayer made by the applicant-appellant was rejected by this Court by a reasoned order dated 22.06.2021 passed in I.A. No.1691 of 2021 with I.A. No.2353 of 2021 with I.A. No.8963 of 2019. The applicant-appellant thereafter approached the Hon'ble Supreme Court of India in SLP (Crl.) No.(s).7546-7548/2021 but the Hon'ble Supreme Court of India has been pleased to dismiss the same vide order dated 20.10.2021. It is next submitted by the learned counsel for the applicant-appellant that the applicant-appellant has filed the instant appeal against the judgment of conviction and order of sentence dated 22.02.2019 passed by the learned Spl. Judge, C.B.I., Ranchi under the Prevention of Corruption Act, 1988 passed in R.C. No.02(A)/1997-R, whereby the Applicant-Appellant has been convicted and sentenced to undergo separate Rigorous Imprisonment for commission of offences punishable under various penal provisions of law as follows:-

Name of the Convict	Offences	Imprisonment	Fine	Default
Md. Sahabuddin Baig	Section 13 (2) r/w Section 13 (1) (d) of the P.C. Act	5 years R.I.	Rs. 10 lacs	6 Months S.I.
Md. Sahabuddin Baig	Section 120B r/w Sections 420, 407, 467, 468, 471 of the I.P.C. r/w Section 13 (2) r/w Section 13 (1) (d) of the P.C. Act	2 years R.I.	Rs. 10 lacs	6 Months S.I.

3. The brief facts of the case is that this case relates to bitumen scam and the applicant-appellant was the employee of the State Government and at the relevant time his substantial post was Commercial Tax Officer in the Department of Commercial Taxes and he was posted for some time as Private Secretary of the then Minister of Road Construction Department, Government of Bihar, Patna being the co-convict -Md. Illiyas Hussain @ Md. Illiyas and the Applicant-Appellant has been held guilty along with the co-accused persons for having in criminal conspiracy with the co-accused persons committed the misappropriation of 3045.200 MT of bitumen amounting to Rs.1,52,26,000/-besides being a public servant having committed the offence of misconduct.

4. Learned counsel for the appellant submits that there is merit in this appeal and the impugned judgment and conviction is not sustainable in law. It is next submitted that the co-convict namely Ilyas Husain @ Md. Illiyas has been granted bail by the Hon'ble Supreme Court of India in SLP (Crl.) No.5022 of 2020 vide order dated 24.11.2020 during the pendency of Cr. App. (SJ) No.810 of 2020. Further, co-convict Dhudheshwar Nath Singh @ Dudheshwar Nath Singh has also been granted bail by the Hon'ble Supreme Court of India in SLP (Crl.) No.5052 of 2021 vide order dated 23.09.2021 during the pendency of Cr. App. (SJ) No.458 of 2019. It is further submitted that the applicant-appellant is an old person aged about 69 years and he is suffering from various ailments like arthritis and hyper tension. It is further submitted that the co-convict Kedar Paswan filed SLP (Crl.) No.3648 of 2021 for suspension of sentence and the Hon'ble Supreme Court has been pleased to dismiss the same vide order dated 13.09.2021 with a direction to decide the appeal expeditiously. It is next submitted that the hearing of Criminal Appeal were taken up by this Court on 29.09.2021 which continued till 26.04.2022 but the hearing of the appeal preferred by the appellant could not be concluded and in the meanwhile the appellant has remained in custody for about 4½ years. Hence, it is submitted that the sentence of the appellant be suspended and ad interim bail be granted to the appellant during the pendency of the appeal.

5. Learned counsel for the C.B.I. on the other hand vehemently

opposes the prayer for suspension of sentence and submits that by a reasoned order, the prayer for suspension of sentence has already been rejected by this Court and the Hon’ble Supreme Court of India has also rejected the S.L.P. filed against the said order dated 22.06.2021 passed by this Court. The co-convicts who have been granted bail were prior to dismissal of SLP (Crl.) NO.7546-7548 of 2021 dated 20.10.2021 so as such no fresh ground is made out. It is next submitted by the learned counsel for the C.B.I. that the co-convict namely Md. Ilyas Husain @ Md. Illiyas filed I.A. No.4795 of 2020 before this Court in Cr. App. (SJ) No.444 of 2019 with a prayer for releasing him on provisional bail for three months and the said interlocutory application is still pending and has not yet been disposed of by this Court hence this Court has never rejected any application under Section 389 of the Code of Criminal Procedure of the co-convict- Md. Ilyas Hussain @ Md. Illiyas who has been granted bail by the Hon’ble Supreme Court of India in Cr. App (SJ) No.810 of 2020. It is next submitted that there is every likelihood of the appellant-convict being absconding as he also been convicted in another cases; the facts about which conviction has been suppressed by the appellant in this interlocutory application. Hence, it is submitted that the appellant ought not be admitted on bail during the pendency of this appeal.

6. Perusal of the record reveals that from the impugned common judgment, Cr. Appeal (SJ) No.457 of 2019, Cr. Appeal (SJ) No.284 of 2019, Cr. Appeal (SJ) No.444 of 2019, Cr. Appeal (SJ) No.458 of 2019, Cr. Appeal (SJ) No.469 of 2019 have also arisen and the hearing of the appeals are going on and by accommodating the lawyer of the appellants as per their convenience, the appeals were heard as follows:

Date of Order	Order Details
25-06-2020	Four weeks’ time as prayed for by the appellants was allowed.
13-05-2021	Appeals listed after three weeks
09-06-2021	Appeals to be listed after getting the written notes of arguments and reply by the respondents
22-06-2021	I.A. Nos.1691 of 2021 with I.A. No.2353 of 2021 with I.A. No.8963 of 2019 disposed of

	and appeals listed for hearing in due course or as and when mentioned by the appellant on becoming ready for hearing of the appeal on merit.
29-09-2021	Appeals to be listed for peremptory hearing on 27.10.2021
01.11.2021	Upon the prayer of all the parties, appeal to be listed on 16.11.2021 for further hearing on the merits of the appeal.
16-11-2021	Heard the appeals in part and the appeals to be listed on 18.11.2021
18-11-2021	On the prayer of all the learned senior counsel and learned counsels for the appellants, appeals to be listed on 22.11.2021.
22-11-2021	Heard Mrs. Jasvinder Mazumdar, learned counsel for the appellant in part and the learned counsel took the Court through the depositions of P.W.-1 to P.W.-15 and appeals to be listed on 23.11.2021
23-11-2021	Heard Mrs. Jasvinder Mazumdar, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.284 of 2019 and the learned counsel took the Court through the depositions of P.W.16 to paragraph no.157 of P.W.23 and appeals to be listed on 25.11.2021
25.11.2021	Heard Mrs. Jasvinder Mazumdar, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.284 of 2019 and the learned counsel took the Court through the deposition of P.W.23 and appeals to be listed on 29.11.2021
30.11.2021	Heard Mrs. Jasvinder Mazumdar, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.284 of 2019 and the learned counsel took the Court through the depositions of P.W.36 to paragraph no.50 of P.W.38. and appeals to be listed on 02.12.2021.
02-12-2021	Heard Mrs. Jasvinder Mazumdar, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.284 of 2019 and the

	learned counsel took the Court through the depositions of P.W.38 to P.W.45 and appeals to be listed on 07.12.2021.
07-12-2021	Learned counsel for the appellant Mrs. Jasvinder Mazumdar concluded the argument in Cr. Appeal (S.J.) No.284 of 2019. Mr. Jitendra Shankar Singh commented as his argument on the merit of Cr. Appeal (S.J.) No.444 of 2019 and took the Court through the deposition of P.W.-23 from paragraph 1 to 118 and the appeals to be listed on 09.12.2021.
03-02-2022	Mr. R. Venkataramani, learned senior counsel for the appellant in Cr. Appeal (S.J.) No.458 of 2019 and he concluded his arguments and other counsels for the appellants prayed for time and appeals to be listed on 28.02.2022 for further hearing.
28-02-2022	Heard Mr. Kripa Shankar Nanda, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.444 of 2019 and the learned counsel took the Court through the depositions of P.W.22 to the examination in chief of the P.W.38 and appeals to be listed on 03.03.2022 for further hearing.
03-03-2022	Heard Mr. Jitendra Shankar Singh, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.444 of 2019 and the learned counsel took the Court through the file marked Ext. X/27 from page no.1 to 42 and appeals to be listed on 07.03.2022.
07-03-2022	Since, there was no time, hence, appeals to be listed on 08.03.2022.
22-03-2022	Heard Mr. Jitendra Shankar Singh, learned counsel for the appellant in part in Cr. Appeal (S.J.) No.444 of 2019 and the learned counsel took the Court through the file marked Ext. X/27 from page no.71 to 144 and thereafter through paragraph no.28 to paragraph no.93 of deposition of P.W.38. and appeals to be listed on 24.03.2022.
24-03-2022	Heard Mr. Jitendra Shankar Singh, learned

	counsel for the appellant in part in Cr. Appeal (S.J.) No.444 of 2019 and the learned counsel took the Court to the depositions of P.Ws.43, 45 and P.W.23 as well as Ext. F 1 which is the deposition of P.W.23 in another case being R.C. No.11(A)/1997-D and on the prayer of the said counsel appeals to be listed on 26.04.2022
26-04-2022	On the prayer of the learned counsels for the appellants as well and the learned counsel for the C.B.I., appeals to be listed on 15.06.2022
15-06-2022	A co-ordinate Bench of this Court recused these appeals.
21-10-2022	Learned counsel for the C.B.I. prayed for time in I.A. No.7171 of 2022 in Cr. Appeal (SJ) No.469 of 2019 and I.A. to be listed after two weeks.

7. After 26.04.2022 the roster of this Bench was changed and this appeal was taken out from the Board of this Bench because of change in roster and no provision was made in the roster for part heard matters to be heard by this bench and as the Bench to which this appeal was allotted as per the new roster recused, hence, vide order dated 15.06.2022, the matter was referred to the Hon'ble the Chief Justice and after that this appeal has been assigned to this Court. The hearing of this appeal has already resumed and it can be disposed of shortly provided the applicant-appellant co-operates with the hearing of this appeal.

8. Considering the facts of the case and keeping in view the chance of absconding of the appellant if released on bail, this Court is of the considered view that this is not a fit case where the sentence of the appellant-applicant be suspended and he be admitted on bail during the pendency of this appeal. Accordingly, this interlocutory application, being without any merit, is rejected.

(Anil Kumar Choudhary, J.)

**Cr. App. (SJ) No.284 of 2019 with Cr. App. (SJ) No.444 of 2019 with Cr.
App. (SJ) No.458 of 2019 with Cr. App. (SJ) No.469 of 2019**

List these appeal on 25.11.2022 for hearing on the merits of the appeal.

(Anil Kumar Choudhary, J.)

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