

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

IA No. 01/2018 in CRA No. 26/2010

c/w

Conf. No. 11/2010

Date of order: 20.11.2018

Uttam Kumar Ghosh

vs.

State of J&K

Coram:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE

Appearing counsel:

For Petitioner/Appellant(s) : Mr. P. N. Raina, Sr. Advocate with

Mr. . J. A. Hamal, Advocate

For respondent (s) : Mr. Vishal Bharti, Dy. AG

IA No. 01/2018

We have heard learned counsel for the parties.

By this application, the applicant has sought modification in the condition imposed by this Court vide order dated 30th July, 2018 for grant of suspension of sentence.

It is submitted by the applicant that he is a resident of village, Jamir Dumga, P/o Mehatpur, Police Station, Chapra, District Nadia, West Bengal and is a convicted employee of the Border Security Force. It is submitted that his financial condition is extremely miserable. He has nobody to support financially. It is further submitted that the applicant is unable to afford the financial expenses, which are required for travelling from west Bengal to Jammu and vice versa along with other incidental expenses. The applicant has also pointed out that he has undergone treatment as surgery for Hernia and it is difficult for him to travel such a long distance. It is stated that the condition imposed by this

Court vide order dated 30th July, 2018 requiring him to report every month before the Police Station, Samba is extremely hard.

Learned counsel for the respondent has objected the application and submitted that the applicant was conscious of this difficulty when the order dated 30th July, 2018 was passed, therefore, no modification is called for.

We have considered the submissions made by the learned counsel for the parties.

It cannot be disputed that to travel from Nadia to Samba is difficult and would be working hardship upon the applicant, who has to undergo the same once in a month. It is trite that the conditions are imposed while granting an order of suspension of sentence in order to ensure and secure the appearance of a convicted appellant in case the Court decides the case against him at the stage of final hearing. Such appearance can be fixed by modifying the condition and requiring the applicant to mark his attendance before a Police Station, in whose jurisdiction he is residing. In the body of the application, the applicant has stated that he is residing under the jurisdiction Police Station, Chapra.

In view thereof, the condition imposed by the order dated 30th July, 2018 is modified and instead of condition regarding directing the applicant to report to the concerned Police Station once in every month, shall stand waived and substituted by the condition that he shall report to the Incharge Police Station, Chapra at the day time on second Saturday of every month. The Incharge Police Station shall submit quarterly report to the Registrar Judicial of this Court regarding attendance of the applicant. In case, the applicant commits default on any date, this Court shall be immediately informed.

Accordingly, this application is allowed.

Let a copy of this order be sent to the Incharge Police Station, Chapra. A copy of this order be also sent to the Sr. Superintendent of Police Nadia, West Bengal in order to ensure compliance.

(RAJESH BINDAL)
JUDGE

(GITA MITTAL)
CHIEF JUSTICE

JAMMU
20.11.2018
Karam Chand

