

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRLMP No. 1021/2007 in

Petition(s) for Special Leave to Appeal (CrI)... 2007

CRLMP.NO(s). 1021

(From the judgement and order dated 15/01/2007 in CRLA No. 31-SB/2007 & order dt. 16.1.2007 in CRLM No. 2500/2007 in CRLA No. 31-SB/2007 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PAWAN KUMAR

Petitioner(s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(for exemption from surrendering)

Date: 24/01/2007 This Petition was mentioned) today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. P.S. Patwalia, Sr. Adv.

Mr.Aman Preet Singh Rahi, Adv.

Mr. Ekta Nijjar, Adv.

Mr. Jagjit Singh Chhabra, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Taken on board.

Issue notice.

Mr. R.K. Rathore, Additional Advocate General for the State of Punjab, who is present in Court, accepts notice on behalf of the State.

Application for exemption from surrendering has become infructuous.

The petitioner was convicted under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 and sentenced to one and a half year rigorous imprisonment with fine of Rs.2000/-, in default to undergo rigorous imprisonment for three months.

The petitioner filed First Appeal in the High Court and prayed for suspension of sentence and extension of bail in terms of the provisions of Section 389(2) Cr.P.C. The High Court by its order dated 15.1.2007 ordered that the "petitioner should spend at least three months actual sentence and thereafter only, his prayer for suspension of sentence can be considered on merits". The petitioner thereafter moved a CrI. Misc. No. 2500/2007 in Criminal Appeal No.31-SB/2005 which came up for hearing before the Single Judge which was rejected on 16th January, 2007.

Section 389(3)(i) provides that where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Trial Court shall grant bail to that person if the sentence is not exceeding three years, subject to confirmation by the Appellate Court. In the present case, Appeal has already been admitted by the High Court but the High Court did not extend the bail granted by the trial Court. In the facts and circumstances of the present case, we feel that the High Court should have extended the bail till the disposal of the appeal.

For the reasons stated above, the impugned order is set aside and the Petitioner is directed to be released on bail. His sentence shall remain

suspended till the Appeal pending before the High Court is heard and disposed of on merits.

The special leave petition stands disposed of accordingly.

(J.S. Rawat)

AR-cum-PS

(Neeru Bala Vij)

Court Master