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SLP(Crl.)No. 2405 OF 2004
ITEM No.8

Court No. 6

SECTION IIA
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Crl.) No. 2405/2004

(From the judgement and order dated 05/02/2004 in CRLM 57555/2003
in CRLA 374-DB/2002 of The HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH)

JAGAN @ JAGAN NATH

Petitioner (s)

VERSUS

STATE OF HARYANA
(With Office Report)

Respondent (s)

Date : 29/11/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s)Dr. Ramesh K. Haritash, Adv.
Dr. Kailash Chand, Adv.

For Respondent (s)Mr. D.P. Singh, Adv.
Mr. Avneet Toor, Adv.
Mr. V.K. Garg, Adv.

UPON hearing counsel the Court made the following
O R D E R

Learned counsel for the respondent-State is permitted to file Vakalatnama during the course of
the day.

Leave granted.

Heard learned counsel for the parties.

The appeal is allowed in terms of the signed order.

The sentence passed against the appellant, pending criminal appeal, is suspended. The appella
nt is granted bail, subject to the satisfaction of the trial court

Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1367 OF 2004
(Arising out of SLP(Crl.)No.2405/2004)

JAGAN @ JAGAN NATH....

APPELLANT

VERSUS

STATE OF HARYANA....

RESPONDENT

O R D E R

Leave granted.

Heard learned counsel for the parties.

The appellant is before us aggrieved by the impugned order refusing to suspend the sentence and to grant him bail during the pendency of the criminal appeal filed against the conviction and sentence passed under Section 302 read with Section 34 of the Indian Penal Code.

Learned counsel for the appellant contended that the other co-accused have been granted bail.

He added that even the co-accused, to whom a stab injury by knife was attributed, has already been released on bail and the only allegation against the appellant is that he caused an injury with a piece of brick; under the circumstances, the High Court should have suspended the sentence and

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granted bail to the appellant also. He also submitted that the High Court did not consider any one of the contentions raised in the application seeking suspension of sentence.

Learned counsel for the respondent-State submitted that there is a role attributed to the appellant and the cause of the death of the deceased was as a result of the cumulative effect of injuries attributed to all the accused persons, including the injury attributed to the appellant. As to why the bail should not have been granted to the appellant when the co-accused has been granted bail as against the allegation of stab injury by him, the learned counsel only said that the appellant has been convicted with the aid of Section 34 of the Indian Penal Code.

Under the circumstances, we think the prayer of the appellant is just for grant of bail and he is entitled to be enlarged on bail. Hence, the appeal is allowed. The sentence passed against the appellant, pending criminal appeal, is suspended. The appellant is granted bail, subject to the satisfaction of the trial court.

.....J.
[SHIVARAJ V. PATIL]

.....J.
New Delhi, [B.N. SRIKRISHNA]
November 29, 2004.