

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(s).6826/2012

(From the judgement and order dated 23/03/2012 in CRLA No.1512/2010,CRLMA No.2918/2012 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

DHARMESH @ DHAMO

Petitioner(s)

VERSUS

STATE OF GUJARAT

Respondent(s)

(With appln(s) for exemption from filing O.T.,bail and office report ))

Date: 07/01/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s) MS. Prerna Kumari, Adv.  
Drr. Prabhat Kumar, Adv.  
Mr. Sudhir Kumar Singh, Adv.  
Mr. Nitin Kumar Thakur,Adv.

For Respondent(s) Ms. H.Wahi, Adv.  
Ms. Jeswal, adv.  
Ms. Shubhada Deshpande, Adv.

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

Leave granted.  
The appeal is allowed in terms of the signed order.

|(Shashi Sareen) | |(Veena Khera) |  
|Court Master | |Court Master |

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 49 OF 2013  
(Arising out of SLP(Crl.) No. 6826 of 2012)

|DHARMESH @ DHAMO |...| Appellant(s) |

| Versus |

|STATE OF GUJARAT |...| Respondent(s) |

O R D E R

Leave granted.

This appeal arises out of an order passed by the High Court of Gujarat at Ahmedabad whereby an application filed by the appellant for suspension of sentence awarded to him has been dismissed.

The appellant was convicted for an offence punishable under Section 307, Indian Penal Code and sentenced to undergo imprisonment for 10 years besides payment of a fine for Rs. 1,000/- He has challenged his conviction and sentence in Criminal Appeal No. 1512 of 2010 before the High Court. By an order dated 07.07.2011 passed by the High Court in Criminal Misc. Application No. 4594 of 2011, the High Court had directed that if the appeal is not heard within a period of one year, the appellant shall be free to make a fresh application for grant of bail. With that observation the application for grant of bail/suspension of sentence was disposed of as withdrawn.

The appellant then moved a fresh application for suspension of sentence awarded to him. The High Court by the order impugned in this appeal declined to grant that relief to the appellant.

We have heard learned counsel for the parties at some length and perused the record. The appellant has already undergone nearly four years in custody. It appears that there is no immediate possibility of the appeal being taken up for hearing despite the fact that the High Court has instructed the Registry to prepare the paper books expeditiously. We are also told that the co-accused has already been enlarged on bail by the High Court. In the circumstance, therefore, we are inclined to suspend the remainder of sentence awarded to the appellant. We accordingly allow the appeal, set aside the order passed by the High Court and direct that the appellant shall be released from custody on his furnishing bail bonds in a sum of Rs. 20,000/- with two sureties in the like amount to the satisfaction of the trial court.

.....J.  
(T.S.THAKUR)

.....J.  
(FAKKIR MOHAMED IBRAHIM KALIFULLA)