

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 149-150 OF 2021
(arising out of SLP(CRL.) No.1632-1633 OF 2021)
(@ D. NO. 10193/2020)

RAJURAI BHILARAI JAISWAL

Appellant(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for parties.

At the stage of issuing notice on 12.10.2020, we had observed as under:

“Learned counsel for the petitioner submits that though the petitioner absconded during the period of furlough and did not surrender on 31st March, 1998, his appeal was never examined on merits but was dismissed on this account alone on 22nd May, 2008. While doing so, the Court had observed that when the petitioner surrenders to the jail authority or is arrested by the police, he shall be at liberty to prefer an application for revival of appeal. More than a decade passed till finally the police apprehended him on 26th September, 2019 and the endeavor to get the appeal heard on merits has been rejected vide the impugned order dated 18th December, 2019. It is the further submission of the learned counsel for the petitioner that the petitioner was a juvenile on the date of offence being less than 16 years old.”

Learned counsel for the State submits that the impugned order has arisen because the appellant absconded for such an inordinate long period of time till he was apprehended.

Be that it may, we are of the view that keeping in mind that the appeal of the appellant was never heard on merits and on account of his failure to surrender after the period of furlough, the appeal had been dismissed on 22.05.2008 while observing that when he surrenders to jail authorities, he may be at liberty to revive the appeal, an appeal being a valuable statutory right, we are of the view it is in the fitness of things that the appeal should be heard on merits.

In view of the aforesaid, we set aside the impugned order and restore the appeal to be heard on merits before the High Court.

Learned counsel for the appellant makes a prayer that in the meantime, the appellant be enlarged on bail. In view of his conduct, we specifically reject this prayer.

The appeals stand disposed of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[HRISHIKESH ROY]

NEW DELHI;
FEBRUARY 19, 2021.

