

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION



CRIMINAL APPEAL NO.1571 OF 2024
(Arising out of SLP(Criminal) No.3022/2024)

MANJRISH ALIAS MONJRISH TRIPATHI

APPELLANT

VERSUS

STATE OF WEST BENGAL & ANR.

RESPONDENTS

O R D E R

1. Leave granted.
2. The appellant assails the order dated 25.01.2024, passed by a Division Bench of the High Court at Calcutta, in terms whereof the prayer of the appellant to suspend the sentence has been turned down. The prosecution case is that the appellant and his two colleagues - all three Army personnel, were travelling in Howrah - Amritsar Express to Ludhiana in a coach reserved for them. The victim girl, who was 14 years old, boarded the compartment reserved for military personnel. The appellant and his co-accused initiated conversation with her. The appellant allegedly forced her to consume liquor, following which his two colleagues sexually assaulted the victim when she had gone to the washroom. The prosecution case appears to be that the appellant did not accompany his co-accused and did not commit the act of rape.
3. The occurrence was reported on 28.12.2015 and

consequently, FIR was registered on 29.12.2015 under Sections 376(2)(g), 376(d)/120B of the Indian Penal Code, 1860 and Section 4/8 of the Protection of Children from Sexual Offences Act, 2012 (in short, "POCSO Act"). The appellant and his co-accused were arrested on the same day.

4. The appellant repeatedly sought his enlargement on bail, but that was declined up to this Court. The Trial Court vide judgment dated 24.02.2023, eventually, held the appellant guilty of committing offences punishable under Section 6 and 17 of the POCSO Act and sentenced him to undergo rigorous imprisonment for 10 years with a fine of Rs.50,000/-.

5. The appellant has preferred Criminal Appeal bearing CRA(DB) No.62/2023 before the High Court at Calcutta. Pending the appeal, he applied for suspension of sentence primarily on the ground that out of the total sentence of 10 years awarded to him, he has already undergone actual sentence of more than eight years.

6. The High Court vide impugned order has declined to stay the suspension of the appellant after taking brief note of the serious nature of allegations, which have since been established against him before the Trial Court.

7. We have heard learned counsel for the parties and perused the material placed on record.

8. There is no doubt that the allegations proved

against the appellant and his co-accused are of extreme grave nature. However, it is also not in dispute that the appellant has undergone actual sentence of 8 years and 3 months out of the total sentence of 10 years awarded to him. Since, the Criminal Appeal preferred by the appellant challenging his conviction and sentence will take some reasonable time in final adjudication as per its turn, it seems to us that the refusal to suspend the sentence would, to some extent, amount to the denial of a part of the relief to which a threshold convict would be entitled if found not guilty by the Appellate Court.

9. It may not be appropriate, at this stage, for us to ask the High Court to accord out of turn hearing to the appellant's appeal, as various older criminal appeals might be awaiting final disposal. In this peculiar situation, but without expressing any opinion on merits of the case, we deem it appropriate to suspend the sentence of the appellant during pendency of his criminal appeal. Ordered accordingly.

10. The appellant is, thus directed to be released on bail, subject to his furnishing bail bonds to the satisfaction of the Trial Court. However, his prayer for suspension of conviction shall not be entertained until he earns acquittal on merits, nor shall his application for reinstatement and/or for the release of any service benefits be entertained pending the decision of the final appeal. The appellant shall also deposit his passport, if

issued to him, with the Trial Court along with bail bonds.

11. The appeal is disposed of in the above terms.

.....J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

New Delhi;
March 15, 2024

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).3022/2024

(Arising out of impugned final judgment and order dated 25-01-2024 in CRAN No. 2/2023 passed by the High Court At Calcutta)

MANJRISH ALIAS MONJRISH TRIPATHI

Petitioner(s)

VERSUS

STATE OF WEST BENGAL & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.52866/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.52867/2024-EXEMPTION FROM FILING O.T.)

Date : 15-03-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) Mr. Sri Narayan Shukla, Adv.
Mr. Sanjay Mani Tripathi, Adv.
Mrs. Gouri Karuna Das Mohanti, Adv.
Mr. Ali Jethmalani, Adv.
Ms. Anu Gupta, AOR

For Respondent(s) Ms. Anju Thomas, Adv.
Mr. Bhanu Mishra, Adv.
Ms. Astha Sharma, AOR

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

1. Leave granted.
2. The appeal is disposed of and the appellant is released on bail in terms of the signed order.
3. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(PREETHI T.C.)
COURT MASTER (NSH)

(signed order is placed on the file)