

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2019 In R/CRIMINAL APPEAL NO. 1720 of 2019

SALIMBHAI KADARBHAI MAKRANI

Versus

STATE OF GUJARAT

Appearance:

MR SAMIR AFZAL KHAN for the PETITIONER(s) No.

MS MOXA THAKKER APP for the RESPONDENT(s) No.

CORAM: HONOURABLE MR.JUSTICE R.P.DHOLARIA

Date : 18/09/2019

IA ORDER

1. Pending consideration of appeal, the applicant – convict seeks suspension of sentence imposed as per judgment and order dated 06.07.2019 passed in Sessions Case No. 13 of 2019 by learned 2nd Additional Sessions Judge, Rajkot at Dhoraji.

2. Learned advocate for the applicant has argued that even if the allegation levelled against the applicant may be believed to be true, then also, this is not a case of animal slaughtering. Learned advocate has also argued that the applicant has become a victim of circumstances as he was to celebrate the marriage ceremony of his own daughter and while preparing biryani, the beef was used, however the same is not getting any sort of support by conclusive proof from FSL. He has further argued that the applicant is not involved in any such economical activity and this is the solitary incident. Learned advocate has ultimately urged to suspend the sentence of the applicant.

3. Learned APP has strongly opposed for suspension of sentence and argued that after insertion of amendment in the Gujarat Animal Preservation Act, stringent provisions are made for punishment and therefore, the sentence may not be suspended.

4. Having heard learned advocates for the respective parties, on overall consideration of material on record as well as the fact that the applicant is not alleged to have indulged into economical activity of animal slaughter and is only alleged to have used the beef while preparing biryani for celebrating the marriage ceremony of his own daughter, this Court is of the opinion to exercise the judicial discretion to suspend to the sentence and accordingly suspends the sentence imposed upon the applicant as per judgment and order dated 06.07.2019 passed in Sessions Case No. 13 of 2019 by learned 2nd Additional Sessions Judge, Rajkot at Dhoraji. The applicant shall be released from jail forthwith on condition that he shall execute personal bail bond of Rs.10,000/- and one surety of like amount to the satisfaction of the learned trial court on condition that he shall proceed with the Criminal Appeal as and when it may be listed, and he shall surrender his passport, if having, before the learned trial Court and shall not leave India without prior permission of this Court.

5. Application is allowed. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(R.P.DHOLARIA, J)

chandrashekhar

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