

THE HIGH COURT OF SIKKIM: GANGTOK
(Criminal Revisional Jurisdiction)

S.B.: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

I.A. No. 01 of 2018
IN
Crl. Rev. P. No. 03 of 2018

Sashi Shekhar Thakur,
S/o Shri Arun Kumar Thakur,
Permanent R/o Benipatti, Madhubani Bihar,

**At present: State Central Prison, Rongyek,
East Sikkim.**

... Applicant

versus

State of Sikkim.

... Respondent

**Application under Section 397 (1) of the Code of
Criminal Procedure, 1973.**

Appearance:

Mr. N. Rai, Senior Advocate with Mr. Jorgay Namka,
Ms. Panila Theengh, Ms. Malati Sharma and Ms.
Tashi Doma Sherpa, Advocates for the Applicant.

Mr. Karma Thinlay, Additional Public Prosecutor with
Mr. Thinlay Dorjee Bhutia, Additional Public
Prosecutor. Mr. S. K. Chettri and Ms. Pollin Rai,
Assistant Public Prosecutors for the State-
Respondent.

ORDER

(02.11.2018)

Bhaskar Raj Pradhan, J

1. This is to consider an application for suspension of sentence and grant of bail under Section 397 of the Code of

Criminal Procedure, 1973 (Cr.P.C.) pending the determination of the Revision Petition under Sections 397 and 401 Cr.P.C.

2. The learned Trial Judge convicted the Applicant under Section 354-A(1) of the Indian Penal Code, 1860 (IPC) and sentenced him to undergo simple imprisonment for a period of 2 years and fine of Rs.5000/- vide judgment and order both dated 30.04.2018. The learned Sessions Judge vide impugned judgment dated 24.10.2018 declined to interfere with the judgment of the learned Trial Judge but modified the provision of law clarifying that the conviction ought to have been under Section 354-A(1) (i) & (iv) IPC.

3. The Applicant was taken into custody on 24.10.2018 and has been lodged at the State Central Prison, Rongyek, East Sikkim ever since.

4. Heard Mr. N. Rai, learned Senior Advocate for the Applicant and Mr. Karma Thinlay Namgyal, learned Additional Public Prosecutor for the State-Respondent. Whilst Mr. N. Rai would seek suspension of sentence and grant of bail on the grounds urged in the application Mr. Karma Thinlay Namgyal would submit that this was a case in which the judgment of the Trial Court has been confirmed by the Sessions Court as well and therefore bail ought not to be granted.

5. It is submitted on behalf of the Applicant that he is a young man of 28 years of age hailing from a respectable family presently posted as Branch Manager in Syndicate Bank in U.P. and is a permanent resident of Benipatti, Madhubani, Bihar. The Applicant is stated to be the earning member of his family comprising of his old dependent parents. It is urged that the Applicant was on police bail during investigation and thereafter on Court bail during trial as also during appeal proceedings and he has never misused/violated any of the terms and conditions mentioned in the bail orders. It is also urged that Section 354–A(1) (i) & (iv) IPC is a bailable offence.

6. The order dated 09.02.2018 passed by the learned Chief Judicial Magistrate, South Sikkim at Namchi reflects that the Applicant has been released on bail upon furnishing personal bond and surety bond of Rs.50,000/- each. The learned Chief Judicial Magistrate had also released the Applicant on bail upon furnishing personal bond and surety bond of Rs.1,00,000/- each vide order dated 30.04.2018 to allow the Applicant to prefer an appeal before the Sessions Court.

7. This Court has admitted the Revision Petition and called for the lower Court records for hearing. In view of the aforesaid, pending hearing of the present Revision Petition, the Applicant shall be released on bail to the satisfaction of the learned Sessions Judge, South Sikkim at Namchi on a personal bond of Rs.50,000/- with two sureties of the like

amount. The Applicant shall personally attend all dates of hearing in the present proceedings. The Applicant as well as the sureties shall also furnish their personal and official addresses, e-mail addresses, telephone and mobile numbers and if there is any change in the same notify the changes forthwith.

8. The application stands disposed.

(Bhaskar Raj Pradhan)
Judge
02.11.2018

Approved for reporting: yes.
to/ Internet: yes.