

I.A. No. 01 of 2018
 In
 Criminal Appeal No.31 of 2018
 Mikal Bhujel *alias* Ruben v. State of Sikkim

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

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

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IN
Criminal Appeal No. 31 of 2018

Mikal Bhujel *alias* Ruben,
 S/o Jeewan Bhujel *alias* John,
 Resident of 'CG' 'R', East Sikkim.

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

... Applicant

versus

State of Sikkim.

... Respondent

**Application under Section 389 read with Section 482 of
 the Code of Criminal Procedure, 1973.**

Appearance:

Mr. B. Sharma, Senior Advocate with Mr. Sajal
 Sharma, Advocate for the Applicant.

Mr. S. K. Chettri and Ms. Pollin Rai, Assistant Public
 Prosecutors for the State-Respondent.

ORDER

(19.11.2018)

Bhaskar Raj Pradhan, J

1. Heard Mr. B. Sharma, learned Senior Advocate for the
 Applicant and Mr. S. K. Chettri, Assistant Public Prosecutor for the
 Sate-Respondent. This is an application under Section 389 read with
 Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) for

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suspension of sentence and release of the Applicant on bail pending the Appeal before this Court. Vide order dated 08.10.2018 the Criminal Appeal has been admitted for hearing. On the same date, notice was issued on the present bail application. On 16.11.2018 the Applicant has filed an additional affidavit in support of the bail application. The State-Respondent has not filed any reply for the said application.

2. It is the contention of the Applicant that he was convicted under Section 3(a) of the Prevention of Children from Sexual Offences Act, 2012 (POCSO Act) and he has been sentenced for a period of 7 seven years for simple imprisonment vide order on sentence dated 22.08.2018. The learned Senior Counsel for the Applicant would submit and it is also pleaded that during the trial the Applicant was released on bail with certain condition and that he has not violated any of the conditions laid down therein. It is also pleaded that pursuant to the impugned judgment dated 21.08.2018 and order on sentence dated 22.08.2018 the Applicant was taken into custody on 22.08.2018 and as such considering the time of arrest and release on bail during the trial and the time in custody after the order on sentence a total of 120 days has been served by the Applicant in custody as on date. The Applicant further pleads in the additional affidavit that he is the only earning member of the family as his father is already undergoing sentence and the incarceration is causing his family great harm and suffering. This Court has examined the impugned judgment and order on sentence.

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3. The Applicant has already spent a period of 120 days in custody. The Appeal is admitted for hearing. The father of the Applicant being in jail, the Applicant seems the only male member of the family. No adverse remark against the Applicant has been brought on record by the prosecution. The Applicant had been on bail through trial. The State-Respondent has not pleaded that the Applicant has misused the liberty so granted by the learned Special Judge, POCSO Act, 2012 vide order dated 23.06.2016.

4. In the circumstances this Court is of the considered view that the application for bail should be allowed. The Applicant is granted bail subject to the satisfaction of the learned Special Judge, POCSO Act, 2012 East Sikkim. The Applicant shall furnish personal bond for an amount of Rs. 25,000/- with two sureties of the like amount. The Applicant shall appear personally on every date of hearing before this Court. The Applicant shall not travel out of Sikkim during this period. 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.

5. The application stands disposed.

(Bhaskar Raj Pradhan)
Judge
19.11.2018