



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2023
(@ SPECIAL LEAVE PETITION (CRL.) NO(S). 12990 OF 2023)

GIRRAJ

.....APPELLANT(S)

VERSUS

THE STATE OF RAJASTHAN

.....RESPONDENT(S)

ORDER

Leave granted.

2. The appeal is vehemently opposed by the State. By the impugned order, the prayer of the appellant for grant of suspension of sentence till the final disposal of the admitted appeal of the year 2022 has been rejected.

3. The appellant has undergone incarceration for a period of more than one year. However, the maximum substantive sentence is of five years. The High Court has not directed that appeal will be taken up immediately or in near future.

4. Considering the pendency of cases before the Rajasthan High Court, Bench at Jaipur, we find that the appeal of the year 2022 is not likely to be heard in regular course before the appellant undergoes the entire sentence.

5. Repeatedly, we have observed that some of the High Courts are taking a view that before the prayer for suspension of sentence is considered, the accused has to undergo sentence for a particular

length of time. Repeatedly, this Court has said that the said approach is incorrect. There is no such hard and fast rule. Each case has to be considered in the light of the fact situation.

6. For that purpose, the appellant shall be produced before the Trial Court within a period of one week from today.

7. The Trial Court shall enlarge the appellant on appropriate bail till the final disposal of the appeal before the High Court.

8. The appeal is, accordingly, allowed.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[PANKAJ MITHAL]

NEW DELHI;
NOVEMBER 06, 2023.

ITEM NO.49

COURT NO.9

SECTION II

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). 12990/2023

(Arising out of impugned final judgment and order dated 21-08-2023 in SBCRLMB No. 923/2023 passed by the High Court Of Judicature For Rajasthan At Jaipur)

GIRRAJ

Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN

Respondent(s)

IA No. 207901/2023 - EXEMPTION FROM FILING O.T.)

Date : 06-11-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Rishi Matoliya, AOR
Mr. Nikhil Kumar Singh, Adv.
Mr. Pavan Sharma, Adv.
Mr. Raghuvver Pujari, Adv.
Ms. Sumati Sharma, Adv.
Ms. Diya Purohit, Adv.

For Respondent(s) Mr. Vikas Chaudhary, Adv.
Ms. Neha Kapoor, Adv.
Ms. Malini Jain, Adv.
Mr. Milind Kumar, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

(Signed order is placed on the file)