

SUZANNE LOUISE MARTIN

A

v.

STATE OF RAJASTHAN & ANR.

(Criminal Appeal No. 78 of 2009)

JANUARY 16, 2009

B

[MARKANDEY KATJU AND V.S. SIRPURKAR, JJ.]

CODE OF CRIMINAL PROCEDURE, 1973:

s. 389 – Grant of bail and suspension of sentence – Conviction and sentence of imprisonment for life awarded by trial court u/s 376 IPC – Pending appeal High Court granting bail and suspending the sentence – HELD: This was not a fit case where the sentence awarded should have been suspended and accused released on bail – High Court was totally unjustified in granting bail to the accused, or in suspending the sentence – Order of High Court set aside – Bail granted to accused cancelled – Penal Code, 1860 – s.376.

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. of 78 of 2009.

E

From the final Judgment and Order dated 29.7.2008 of the High Court of Judicature at Jodhpur in D.B. Criminal Misc. Bail Application/Suspension of sentence Petition No. 712 of 2008 in D.B. Criminal Appeal No. 344 of 2008.

Vikram Choudhary and Nikhil Jain (for Ajay Pal) for the Appellant.

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Jatinder Kumar Bhatia, Rajendra Singhvi and K.K.L. Gautam (for Brij Bhusan), for the Respondents.

The Order of the Court was delivered

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ORDER

1. Leave granted.
2. Heard learned counsel for the parties.

H

A 3. This Appeal has been filed against the order dated
29.07.2008 passed by the Division Bench of the High Court of
Judicature for Rajasthan at Jodhpur in D.B. Criminal
Miscellaneous Bail Application/Suspension of Sentence Petition
No. 712 of 2008 in D.B. Criminal Appeal No.344 of 2008
B whereby the High Court has suspended the sentence awarded
to the accused-respondent No.2 under Section 389, Cr.P.C.
and granted him bail on certain conditions.

C 4. We have carefully perused the record in this case,
especially the first information report bearing No.18 dated
9.1.2008 registered under Sections 376 & 450 of the Indian
Penal Code at Police Station Ambamata District, Udaipur in
which serious allegations have been made against the
respondent-accused. The appellant is a British journalist and
business woman. She had come to India and was staying in
D Pardeshi Guest House, Udaipur. On 23/24.12.2007, the
respondent No.2, who was running the guest house, barged
into the room where the appellant was staying and forcibly raped
her. She has alleged that because of this incident she was
emotionally, mentally and physically wrecked and became totally
uncapacitated to even think and act like a normal human being.
E We have also perused the judgment of the trial Court convicting
the accused on both counts and awarded life imprisonment
under Section 376, IPC.

F 5. Under the circumstances, without expressing any
opinion on the merits of the dispute and culpability of the
accused, we are certainly of the opinion that this was not a fit
case where the sentence awarded should have been
suspended and the accused released on bail. The High Court
was, thus, totally unjustified in granting bail to the accused, or
in suspending the sentence.

G 6. Accordingly, we accept this appeal, set aside the
impugned judgment of the High Court and cancel the bail
granted to the accused-respondent No.2. He shall be taken into
custody forthwith. However, we would request the High Court
to dispose of the appeal expeditiously.