

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 630 OF 2020
(Arising out of SLP(CrI.) No. 10460/2019)

MOHAN . . . APPELLANT(S)

VERSUS

STATE OF MADHYA PRADESH . . . RESPONDENT(S)

O R D E R

1. Leave granted.
2. We have heard learned counsel for the parties.
3. The order impugned in this appeal is one of rejecting the prayer for suspension of sentence/grant of bail during the pendency of the appeal against conviction qua the appellant (Mohan).
4. The role of the appellant mentioned by the prosecution is that the appellant facilitated procurement of SIM card on the request made by accused-Ashok

Jatav. This sim card, it is stated, was allegedly used by accused Ashok Jatav and his colleagues in the commission of offence of kidnapping. Hence, the appellant was a member of the conspiracy to commit the offence of kidnapping.

5. The question would be whether the appellant (Mohan) was a party to the agreement to do or caused to do the illegal act of kidnapping to be a member of the criminal conspiracy. We are aware of the Explanation to Section 120A but in the facts of the present case, the legal effect of the Explanation in the light of the evidence has to be examined. Conspiracy cannot be assumed from a set of unconnected facts or from a set of conduct at different places and times without a reasonable link. Learned counsel for the appellant, in this regard has highlighted that there is no substantial evidence to indicate that the appellant was aware that

the sim card would be later on or was likely to be used in the commission of the offence of kidnapping which the appellant has been tried.

6. Taking over all view of the matter, during the pendency of the criminal appeal No.2468/2019 pending before High Court of Madhya Pradesh (Gwalior Bench), we direct release of the appellant on bail in connection with Sessions Trial No.41 of 2008 arising out of F.I.R. No.32/2008 dated 30.01.2008, P.S. Vishva Vidhyalaya, District Gwalior on such terms and conditions as may be determined by the trial Court.

7. Needless to mention that no observation made in this order be taken into account while considering the appeal before the High Court.

8. The appeal is disposed of in the

above terms.

....., J.
(A.M. KHANWILKAR)

....., J.
(SANJIV KHANNA)

**NEW DELHI
SEPTEMBER 24, 2020**

