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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 65/2026 & CRL.M. (BAIL) 190/2026**

AVINASH KUMAR @ LANGRA & ORS.Appellants
Through: Mr. M.K. Perwez, Advocate

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Satish Kumar, APP for the
State

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
25.03.2026

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CRL.M.A. 2877/2026 (*for Exemption*);

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.(BAIL) 105/2026 (*Suspension of sentence*)

3. The present application by the appellants under *Section 430* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**) read with *Section 389* and *Section 482* of the Code of Criminal Procedure, 1973 seek suspension of sentences awarded *vide* order on sentence dated 18.12.2025, passed by learned Principal District & Sessions Judge, North West District, Rohini Courts, Delhi (***learned Trial Court***) in Sessions Case No.689/2021 arising out of FIR No.571/2020 dated 10.09.2020 registered at PS: Samaipur Badli, Delhi under *Sections 186/353/308/34* of the Indian Penal Code, 1860 (**IPC**), whereby they have been sentenced to undergo rigorous



imprisonment for a period of *three months* along with a fine of Rs.500/- each, in default whereof to undergo simple imprisonment for a period of *seven days* for offences under *Section 186* of IPC; rigorous imprisonment for a period of *two years* along with a fine of Rs.2,000/- each, in default whereof to undergo simple imprisonment for a period of *one month* for offences under *Section 353* of IPC and; rigorous imprisonment for a period of *two years* along with a fine of Rs.2,000/- each, in default whereof to undergo simple imprisonment for a period of *three months* for offences under *Section 308* of IPC. All the sentences have been directed to run concurrently.

4. An appeal being C.A. no. 65/2026 against the judgement of conviction dated 17.12.2025 as well as the aforesaid order on sentence has been preferred by the appellants, which stands admitted and is pending adjudication before this Court.

5. The appellants by way of this application seeks suspension of sentence of the appellants. Learned counsel for appellants seeks so on the grounds that the maximum sentence imposed upon them is two years; they are all youngsters aged between 28 to 35 years; they belong to the poor strata of the society and are hardly able to make ends meet from their meagre income; and lastly that the appeal is likely to take considerable time. He submits that keeping the appellants in custody would defeat the very purpose of the present appeal.

6. *Per contra*, learned APP for the State fairly submitted that in view of the maximum sentences awarded to the appellants, the application for suspension of sentence may be considered in accordance with law.



7. This Court has heard learned counsel for the parties as also perused the materials on record.

8. Since the appellants herein have been sentenced with a fixed term of sentence of *two years*, this Court seeks to place reliance upon ***Bhagwan Rama Shinde Gosai & Ors. v. State of Gujarat:(1999) 4 SCC 421***, wherein the Hon'ble Supreme Court has held as under:-

“.... When a convicted person is sentenced to fixed period of sentence and when he files appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when motion for expeditious hearing the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter suspending the sentence, so as to make the appeal right meaningful and effective. Of course appellate courts can impose similar conditions when bail is granted.”

9. In fact, reliance is also placed upon ***Aasif @ Pasha v. The State of U.P. & Ors.:2025 SCC OnLine SC 1644***, wherein the Hon'ble Supreme Court while granting suspension of sentence to the appellant sentenced to a maximum term of *four years*, and placing reliance upon ***Bhagwan Rama Shinde Gosai & Ors. (supra)*** has also held as under:-



“10. There are two types of sentence that the Trial Court can impose depending on the nature of the offence. Some orders of sentence are for a fixed term, unlike the order of sentence of life imprisonment.

11. The case in hand is one of a fixed term of sentence. The maximum punishment that has been imposed is 4 years.

12. Way back in 1999, this Court in “Bhagwan Rama Shinde Gosai v. State of Gujarat”, (1999) 4 SCC 421 stated that when a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence should be considered by the Appellate Court liberally unless there are exceptional circumstances.

13. Of course, if there is any statutory restriction against suspension of sentence, it is a different matter.

14. Similarly, when the sentence is life imprisonment, the consideration for suspension of sentence could be of a different approach.

15. But if for any reason the sentence of a limited duration cannot be suspended, every endeavour should be made to dispose of the appeal on merits, more so when a motion for expeditious hearing of the appeal is made in such cases.

16. This Court said in so many words that otherwise the very valuable right of the appellant would be an exercise in futility by afflux of time.

17. When the Appellate Court finds that due to practical reasons, such appeals cannot be disposed of expeditiously, the Appellate Court must show special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. At the same time, the appellate



courts can impose similar conditions when appeal is granted.”

10. In view thereof, since the appellants herein have been sentenced with a fixed term of sentence of *two years*, this Court, unless otherwise and upon due consideration of the facts and circumstances involved, is generally required to adopt a lenient/ liberal approach while exercising discretion in suspending the sentence till the pendency of the criminal appeal.

11. It is also a matter of fact that the appellants herein have only recently filed an appeal in the year 2026, and that the same has already been admitted. However, there is no projected timeline for the appeal being heard on merits in due course. There may be a situation that the appellants' term of sentence of *two years* either come to an end or they may have undergone a substantial part thereof. In such a scenario, and to save the ignominy of the appellants from doing so, it would not be appropriate to subject the appellants to incarceration for the whole and/ or substantial part of the sentence of *two years* during the pendency of thereof, more so, when they all have a statutory right of appeal. Moreover, there is always a chance of the appellants succeeding therein and the sentence overturned resulting in their acquittal. The appellants cannot be punished for no fault of theirs. Doing so would be travesty of justice.

12. As such, the sentence awarded to the appellants *vide* order on sentence dated 18.12.2025, passed by learned Trial Court in Sessions Case No.689/2021 arising out of FIR No.571/2020 dated 10.09.2020 registered at PS: Samaipur Badli, Delhi under *Sections 186/353/308/34* of the Indian



Penal Code, 1860 shall remain suspended pending disposal of the captioned appeal, however, subject to the following conditions:

- a. The appellants shall not leave the country without prior permission of this Court.
- b. In case of any changes in the residential/ permanent address/ contact details/ phone number, the appellants shall inform this Court;
- c. The appellants shall appear before this Court if, as and when directed.

13. Accordingly, in the event the appellants are in judicial custody, they shall be released from judicial custody, subject to each of them furnishing a personal bond in the sum of Rs.25,000/- [*Rupees Twenty Five Thousand Only*] and one surety of the like amount to the satisfaction of the concerned Jail Superintendent, if not required in custody in connection to any other case.

14. As such, the present application is allowed and disposed of in the aforesaid terms.

15. A copy of this order be forwarded to the concerned Jail Superintendent for information and compliance.

SAURABH BANERJEE, J

MARCH 25, 2026/So