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

+ **CRL.A. 702/2025**

KUNDAN YADAV

.....Appellant

Through: Mr. Mohan Lal Sharma and
Mr. Ramesh Kumar, Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with Mr. Subhash, ASI, PS-Nihal
Vihar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **19.05.2025**

CRL.M.A. 15482/2025 (for exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

CRL.A. 702/2025

4. The present appeal filed under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023 impugns judgment of conviction dated 17th April, 2025 and order on sentence dated 25th April, 2025 passed by the ASJ-02 (FTC), West, Tis Hazari Courts. The said decisions arise out of FIR No. 19/2018 registered under Sections 279/304/201 of the Indian Penal Code,



1860¹ at P.S. Nihal Vihar. Appellant was subsequently convicted under Sections 279/304 of IPC.

5. Admit.

6. List in due course.

7. The Registry is directed to requisition the digitized copy of the Trial Court Record for the perusal of this Court with proper indexation, pagination and bookmarks.

CRL.M.A. 15481/2025 (for stay)

8. Issue notice. Mr. Amit Ahlawat, APP for the State, accepts notice.

9. By order of sentence dated 25th April, 2025, the Appellant has been sentenced to undergo simple imprisonment for a period of 3 months under Sections 279 of IPC and fine of INR 1,000/- with default sentence of simple imprisonment of 1 month and simple imprisonment for a period of 2 years and 6 months under Sections 304 Part-II of IPC and fine of INR 30,000/- with default sentence of simple imprisonment of 1 year. Both sentences were directed to run concurrently.

10. The order of sentence also records that an application under Section 389(3) of the Code of Criminal Procedure, 1973 was filed by the Appellant, which was allowed and the Appellant's sentence was suspended for a period of 1 month subject to furnishing bail bond in the sum of INR 10,000/-, which was duly furnished and accepted by the Trial Court till 26th May, 2025.

11. The Supreme Court in *Sudhir Kumar Jain v. State of Delhi*,² observed that Section 389 of the Code of Criminal Procedure, 1973

¹ "IPC"

² MANU/SC/8988/2007



empowers the Appellate Courts to suspend sentences till the pendency of appeal where period of sentence does not exceed 3 years. For ease of reference, the relevant observations are reproduced as under:

“6. Keeping in view the fact that the appeals are not being disposed of expeditiously by Appellate Courts, Legislature, in its wisdom, has enacted Section 389, Code of Criminal Procedure Sub-section (3) of which empowers the Trial Court to suspend the sentence of such convicts, who have been convicted for a period not exceeding three years, for such period as will afford them sufficient time to present an appeal. Section 389 also empowers the Appellate Court including the High Court to suspend the sentence and release the convict on bail during the pendency of the appeal in case the period of sentence does not exceed three years.”

12. Considering that the sentence awarded to the Appellant is imprisonment for a period of 2 years and 6 months and the appeal is unlikely to come up for hearing in the near future, this Court deems it fit to suspend the sentence of the Appellant during the pendency of the appeal. The Court is also informed that the Appellant has already deposited the fine imposed in the imposed judgment.

13. Accordingly, the Appellant shall be released on bail, subject to him furnishing a bail bond in the sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the concerned Jail Superintendent/Trial Court/ Duty MM on the following conditions:

- (a) The Appellant shall provide his mobile number(s) to the Investigating Officer³ concerned, which shall be kept in a working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned during the period of suspension of sentence.
- (b) The Appellant shall furnish his permanent address to the IO within two weeks of his release and in case he changes his address, he will inform

³ “IO”



the IO concerned and this Court;

(c) The Appellant shall appear before the Court as and when the appeal is taken up for hearing;

(d) The Appellant shall not leave the country without the permission of this Court;

(e) The Appellant shall not commit any offence during the period of his release.

(f) The Appellant shall appear before the concerned Investigating Officer on the first Monday of every three months at 2:00 PM to mark his presence. However, he shall not be kept waiting for longer than one hour for this purpose.

14. The application is allowed in the afore-mentioned terms.

15. Let a proof of payment of fine be deposited with the Registry of this Court.

16. List on 5th August, 2025.

SANJEEV NARULA, J

MAY 19, 2025

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