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

CNR No. DLHC010858872024

+ **CRL.A. 1111/2024**

ABDUL WAHID

.....Appellant

Through: Mr. Jitender Kr. Singh, Advocate.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for the State with SI Sonal Raj, PS Bharat Nagar and SI Seema, New Delhi.

Ms. Pallavi Sharma Kausal, Mr. Raghav Vig, Mr. Suraj Kumar Jha, Ms. Sakshi Tiwari, Mr. Pratham Malik, Mr. Ritul Sharma and Ms. Vanshika Kapoor, Advocates for respondent no. 2.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

ORDER

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14.08.2026

CRL.M.(BAIL) 1994/2024

1. This application under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the sole accused in Sessions Case No. 54/2019 on the file of the Additional Sessions Judge-01 (POCSO), North West, Rohini



District Courts, Delhi, seeking suspension of sentence during pendency of the appeal. As per the impugned judgment dated 06.09.2024, the appellant/ accused has been found guilty of the offences punishable under Section 5(f) and (m) read with Section 6 of the PoCSO Act. He has been sentenced to rigorous imprisonment for a period of 12 years and a fine of ₹25,000/- and in default of payment of fine, simple imprisonment for 6 months.

2. It is submitted by the learned counsel for the appellant/ accused that out of the sentence of 12 years, he has already served more than 2 years. It is also submitted by the learned counsel for the appellant that the materials on record do not make out a case of penetrative sexual assault. The materials have also come on record that the father of the prosecutrix came to know about the incident during the night of the same day of the incident. However, despite such grave offence being committed against his daughter, the father never thought it necessary to immediately inform the police. Therefore, there was every possibility of improvements being



made in the prosecution case. It is also submitted that the appellant/accused has no criminal antecedents.

3. The application is opposed by the learned Additional Public Prosecutor for the respondent/ State as well as the learned counsel appearing for the prosecutrix. It is submitted that the victim was hardly 4 years old when the incident took place. The appellant/accused was admittedly the teacher of the *Madarasa* where the prosecutrix was attending for education and the materials on record establish that the offence of penetrative sexual assault as contemplated under Section 3(1)(a) PoCSO Act is made out and, therefore, this is not a fit case in which the sentence is liable to be suspended.

4. Heard both sides.

5. I was taken through Ext. PW3/A FIS/FIR, Ext. PW1/X1 164 statement as well as the testimony of the victim. The appellant/accused was admittedly the teacher of *Madarasa* in which the prosecutrix was attending. The victim was hardly 4



years when the incident took place.

6. It is well settled that while considering an application for suspension of sentence, the appellate court is only to examine if there is such patent infirmity in the order of conviction that renders it *prima facie* erroneous. Where there is evidence that has been considered by the trial court and conclusions arrived at, the appellate court, while exercising its power for suspension of sentence, cannot re-assess or re-analyze the same evidence and take a different view, to suspend the execution of the sentence and release the convict on bail. (**See Preet Pal Singh vs State of U.P., (2020) 8 SCC 645**)

7. No patent infirmity is seen. Therefore, this is not a fit case in which the sentence is liable to be suspended.

8. Hence, the application seeking suspension of sentence is dismissed.



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9. List for hearing on 26.11.2026.

CHANDRASEKHARAN SUDHA, J

AUGUST 14, 2026
kd