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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 1623/2025**
AAKASH @ AKKU

.....Appellant

Through: Mr. Akshai Malik, Advocate
(DHCLSC) with Mr. Khawar Saleem
and Ms. Diptasree Bag, Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Utkarsh, APP for State with SI
Sheetal

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

ORDER

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24.07.2026

CRL.M.(BAIL) 2351/2025

1. This is an application under Section 430 of the Bharatiya
Nagarik Suraksha Sanhita, 2023, filed by the first accused in
Sessions Case no. 53282/16 on the file of Additional Sessions
Judge-01/POCSO (North-West), Rohini District Courts, Delhi
seeking suspension of sentence. *Vide* the impugned judgement
dated 03.01.2024, the first accused has been convicted of the



offences punishable under Sections 363, 376D read with Section 34 IPC and Section 6 of the PoCSO Act. *Vide* order on sentence dated 17.08.2024, he has been sentenced to varying terms of imprisonment for the aforesaid offences. The sentences have been directed to run concurrently. Therefore, the maximum sentence he will have to undergo is for a period of 20 years.

2. The learned counsel for the appellant/accused submits that out of the sentence of 20 years, the appellant/accused has served nearly 3 years. He submits that the trial court went wrong in convicting the appellant/accused on the basis of the totally unsatisfactory evidence on record. He further submits that there are 08 different versions given by the prosecutrix. Even the grandmother of the victim examined as PW2 does not corroborate or support the version of the prosecutrix. It is also pointed out that the FSL report cannot be relied on. A second sample was taken after 540 days of the alleged incident. The record does not reveal whether the permission of the trial court was taken before the sample of the



appellant is alleged to have been taken. In the light of the aforesaid unsatisfactory evidence, it is submitted that the trial court has erred in convicting the appellant/accused and therefore, this is a fit case in which the sentence is liable to be suspended.

3. The application is opposed by the learned Additional Public Prosecutor for the State who submits that the appellant/accused has criminal antecedents and is an accused in another criminal case alleging the commission of offence punishable under Section 302 IPC.

4. Heard both sides.

5. 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**).

6. The argument advanced by the learned counsel for the appellant/accused as to whether the prosecution case is believable or probable on the basis of the materials on record is a matter that needs to be considered when the appeal is heard on merits.

7. No patent infirmity is seen. Hence, the application is dismissed.

CRL.A. 1623/2025 & CRL.M.A. 35250/2025

List on 02.12.2026.

CHANDRASEKHARAN SUDHA, J

JULY 24, 2026

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