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

+ **CRL.A. 30/2026**

RAM NIWAS

.....Appellant

Through: Mr. Pawan Kumar Sharma, Advocate.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Shoaib Haider, APP for the State.
SI Ashish, P.S.: Jaffarpur Kalan.
SI Deepika, P.S.: Vikaspuri.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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27.04.2026

CRL.M.(BAIL) 42/2026

By way of the present application filed under section 430 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the appellant seeks suspension of sentence imposed *vidé* sentencing order dated 29.11.2025, during the pendency of the present appeal.

2. Notice on this application was issued on 09.01.2026.
3. Status report dated 17.04.2026 has been filed.
4. Proof of service of intimation upon the victim/prosecutrix has been placed on record. However, no one is present on behalf of the victim/prosecutrix when the matter is called-out.



5. The court has heard Mr. Pawan Kumar Sharma, learned counsel for the appellant as well as Mr. Shoaib Haider, learned APP for the State.
6. Mr. Pawan Kumar Sharma submits, that as would be seen from a perusal of the sentencing order, the appellant has been sentenced to simple imprisonment for 02 months alongwith fine of Rs. 1,000/- for the offence punishable under section 506 of the Indian Penal Code, 1860 ('IPC'), with a default sentence of simple imprisonment for 15 days; he has also been sentenced to simple imprisonment for 03 months alongwith fine of Rs. 2000/- for the offence punishable under section 509 of the IPC, with a default sentence of simple imprisonment for 01 month; and further, to simple imprisonment for 01 month alongwith fine of Rs. 500/- for the offence under section 323 of the IPC, with a default sentence of simple imprisonment for 10 days.
7. Most importantly, Mr. Sharma submits, that the appellant has been sentenced to simple imprisonment for 03 years alongwith fine of Rs. 5,000/- for the offence under section 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'), with a default sentence of simple imprisonment for 03 months.
8. In addition, the learned trial court has awarded compensation to the victim/prosecutrix in the sum of Rs. 02 lacs, for mental and physical injury.
9. It is seen that the learned trial court had suspended the sentence imposed on the appellant for a period of 30 days, to enable the appellant to file the present appeal, on which appeal notice was issued *vidé* order dated 09.01.2026.



10. Learned counsel for the appellant submits, that as would be seen from a perusal of judgment of conviction and the sentencing order, the appellant has been sentenced to simple imprisonment for 03 years for the offence punishable under section 12 of the POCSO Act on the following basis:

“14.1 In the present case also, the age of the convict/culprit, at the time of commission of offence, was 41 years and at that stage, he committed sexual harassment upon the victim ‘H’ aged about 13 years by using abusing language and by assaulting her with bricks. He also removed his clothes and made indecent gestures to the victim. This act shows that the intention of the convict was not pure but to commit heinous crime as stated above. Although, convict is a first time offender. However, this kind of consideration have no place in offences committed against a child under Protection of Children from Sexual Offences Act, 2012 (POSCO Act).”

(emphasis supplied)

11. Counsel argues, that quite clearly, the allegation that the appellant had assaulted the victim with bricks cannot be subject of the conviction under section 12 of the POCSO Act, since that allegation has been considered separately and the appellant has been awarded sentence for that act under the other offences with which the appellant was charged.
12. Mr. Sharma submits, that insofar as the offence under section 12 of the POCSO Act is concerned, the only ground on which the appellant has been convicted is that he had used *abusive language* towards the victim and *had removed his clothes and made indecent gestures* towards her. However, in these circumstances, the learned trial court



has awarded to the appellant the *maximum sentence permissible* under section 12 of the POCSO Act, viz., a sentence of 03 years.

13. Counsel submits, that as would be seen from the nominal roll, the appellant has already served more than 06½ months of judicial custody, while the present appeal is pending consideration before this court.
14. He accordingly prays, that the appellant's sentence be suspended during the pendency of the appeal.
15. Mr. Shoaib Haider submits, that though it is correct that the allegation that the appellant had assaulted the victim with bricks cannot be subject of conviction under section 12 of the POCSO Act, the aggravating circumstance in the present case is that the appellant is the father of the minor victim.
16. Upon a perusal of the judgment of conviction, it is noticed that on the date of the incident *i.e.*, night of 13.05.2022, a quarrel had broken-out between the appellant and his wife, and in that process the daughter (the victim in the present case) went to save her mother, whereupon the appellant used abusive language for the victim, threatened her and removed his clothes in front of the victim and made indecent gestures.
17. Upon a conspectus of the circumstances obtaining in the matter, and in particular the fact that the 03 years custodial sentence awarded to the appellant is the *maximum punishment* prescribed under section 12 of the POCSO Act, and the fact that the appellant has already undergone more than 06½ months of judicial custody, and has thereby also already served the sentences awarded to him for the other



offences for which he has been convicted, this court is inclined to allow the present application.

18. Accordingly the appellant's custodial sentence is *suspended during the pendency of the present appeal* subject to the following conditions:

18.1. The appellant shall furnish a personal bond in the sum of Rs. 25,000/-(Rs. Twenty-five Thousand Only) with 01 local surety in the like amount, to the satisfaction of the learned trial court;

18.2. The appellant shall furnish to the S.H.O., P.S.: Jaffarpur Kalan, Dwarka, Delhi, a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

18.3. If the appellant has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of this court;

18.4. The appellant shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter.

19. The court is informed that the victim and her mother (wife of the appellant) are presently residing with the wife's brother, *i.e.*, away from where the appellant would be residing. In the circumstances, this court does not consider it necessary to pass any directions as to the residence of the appellant for purposes of the present order.

20. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

21. The application stands disposed-of.



22. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.

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23. Let the matter remain on the Regular Board, to be taken-up in due course, at its turn.

ANUP JAIRAM BHAMBHANI, J

APRIL 27, 2026/hb