



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CRMP No.4523 of 2025
in Cr. Appeal No.469 of 2024

Reserved on: 29.05.2026

Date of decision: 04.06.2026

Uploaded on : 04.06.2026

Krishan Dev Pal alias Kishu Nath.

...Appellant/Applicant.

Versus

State of Himachal Pradesh.

...Respondent.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? Yes.

For the appellant/ : Dr. Sahil Malhotra, Advocate, vice Ms.
applicant Anubhuti Sharma, Advocate (Legal Aid
Counsel).

For the respondent : Mr. Gautam Sood, Deputy Advocate
General.

Vivek Singh Thakur, Judge

This application has been preferred by the applicant-appellant seeking suspension of sentence during pendency of the criminal appeal, as he is serving sentence of rigorous imprisonment for life along with fine of Rs.10,000/- for commission of offence under Section 302 of the Indian Penal Code ('IPC').



2. The applicant-appellant has been convicted vide judgment dated 28.03.2024 and sentenced vide order dated 01.04.2024 passed by the Additional Sessions Judge-I, Mandi, in Sessions Trial Registration No.38 of 2020, titled '*State of H.P. vs. Krishan Dev Pal*,' arising out of FIR No.136/1984 dated 21.05.1984, registered at Police Station Sadar, District Mandi, under Section 302 IPC.

3. In present case, applicant-appellant has been convicted for committing murder of deceased-Shankar Prashad, who was accompanying the applicant-appellant to Mandi, where one Ram Vilas Shah had handed over Rs.10,000/- to deceased Shankar Prashad for purchasing empty gunny bags.

4. On 19.05.1984, the appellant-applicant and deceased Shankar Prashad were staying in a Guest House. At about 2:15 a.m., Umesh Kumar, Caretaker of the Guest House, heard screams of '*Chhure Se Maar Diya, Chhura Ghomp Diya*,' whereupon he immediately went downstairs and found that Shankar Prashad was holding his stomach and standing in the water tank, and Ved Ram was also present there on the other side of path in frightened condition.



5. On inquiry made by Umesh Kumar, Shankar Prashad, with great difficulty, stated that '*Krishan Pal Ne Chhura Mara*' (Krishan Pal had stabbed him).

6. In the meanwhile, people of the Mohalla also gathered there and Ved Prakash told them that Krishan Pal had stabbed Shankar Prashad in the stomach and thereafter fled from the spot. In the meanwhile, Smt. Krishna and Jiwan also came there, and Umesh Kumar, along with Smt. Krishna and Jiwan, went to Police Post City, Mandi, to give information.

7. In the aforesaid circumstances, an FIR was lodged against the applicant-appellant, who was absconding, and therefore, Chief Judicial Magistrate, Mandi, vide order dated 20.02.1986, called for initiation of proceedings under Sections 82 and 83 of the Cr.P.C. against him. Thereafter, the applicant-appellant was declared proclaimed offender vide the same order dated 20.02.1986.

8. Applicant-appellant was arrested by S.I. Om Prakash and a team of police officers. Upon his production, after his formal arrest, on 17.01.2020, the applicant-appellant was sent to judicial custody by the Magistrate and thereafter subjected to trial. On conclusion of the trial, after assessing the evidence on record, the



Additional Sessions Judge-I, District Mandi, convicted the applicant-appellant and awarded sentence as referred *supra*.

9. Since 11.01.2020, the applicant-appellant is behind bars. As on 20.02.2026, he had undergone total period of 6 years, 5 months and 24 days of sentence, including remission. Thus, as on date, he has undergone about 6 years and 6 months of the sentence awarded to him.

10. Learned counsel for the applicant-appellant has submitted that applicant-appellant is seeking suspension of sentence during pendency of present appeal on the ground that he has already undergone 6 years and 6 months of detention and has served a substantial part of the sentence awarded to him, and therefore, is entitled to the benefit of suspension of sentence during the pendency of the appeal.

11. It has been further contended that applicant-appellant is of advanced age and is suffering from several old age-related ailments and there is necessity of constant medical assistance and continuous medical treatment. It is further submitted that applicant-appellant is particularly suffering from breathing issues and associated comorbidities, and the jail conditions make it extremely difficult for him to manage and control his deteriorating health



condition, which requires regular supervision and treatment, that is not adequately available in prison.

12. It has been pleaded on behalf of applicant-appellant that applicant is of an advanced age of 70 years, making him increasingly vulnerable to health complications, who is unable to cope with hardships of prison. Because of age-related debilities, the applicant-appellant is not able to take care of himself and is unable to endure jail life, and therefore, humanitarian considerations require a lenient approach towards long-serving convict, especially considering his medical vulnerabilities. The medical records pertaining to treatment of the applicant-appellant have also been placed on record along with the application.

13. Status report was called for and, finding no response with respect to the plea regarding ailments of the applicant-appellant, the respondents were again directed to have complete instructions along with the opinion of Medical Officer deputed in the Model Central Jail, Nahan, where the applicant-appellant is serving his sentence.

14. Apart from reply filed to the application, the respondent-State has placed on record instructions dated 20.05.2026 received from the Superintendent of Police, District Mandi, in the office of



Advocate General, Himachal Pradesh, wherein it has been communicated as under:-

“In this regard, it is submitted that the Superintendent Jail, Model Central Jail Nahan, District Sirmour was requested vide this office letter No.LAW/MND/2026-43260 dated 19-05-2026 (letter enclosed) to furnish the opinion of Medical Officer of the Jail regarding ailments like breathing issues and associated comorbidities (as mentioned by the petitioner in his petition/application), treatment summary, current status of ailment and need of treatment etc. of the above mentioned accused/convict along with relevant document to this office so that same could be submitted before the Hon'ble High Court of H.P.

Further, the opinion of the Medical Officer of the Model Central Jail Nahan has been received in this office through e-mail on 20-05-2026 from office of the Superintendent Jail, Model Central Jail Nahan, District Sirmour vide its office letter No. MCJ/NHN/Pri./4058 dated 19-05-2026, which is enclosed herewith for your kind perusal and further necessary action in the matter please.”

15. The opinion of Medical Officer, deputed in Jail, reads as under:-

“L/c kishu nath s/o Sati ram pal age 67 years. Male is suffering from copd A/e etiology non-infection. Currently under the treatment from pulmonary medicine Department of Dr. YSPGMC-Nahan L/c Kishu nath general health is advised to take nebulization And oxygen twice daily L/c kishu nath is also having some ECG change due to copd Medicines and need constant supervision L/c kishu nath disease can be considered, Life threatening considering his age and general health.

So, in my humble opinion L/c kishu nath plea can be considered.”

16. Learned Deputy Advocate General has submitted that the previous history of the applicant-appellant disentitles him from seeking suspension of sentence, as the applicant-appellant had



absconded and could be apprehended only after 36 years, having remained untraceable since 1986.

17. In response, learned counsel for the applicant-appellant has submitted that after conviction, while serving the sentence, the applicant-appellant was released on parole from 29.08.2025 to 25.09.2025 and he surrendered within the time granted to him to return to jail to serve the sentence after expiry of parole. It has further been submitted that during 28 days' parole period, no adverse report was received against the applicant-appellant and he demonstrated his intention to abide by the procedure prescribed by law by continuing to serve his sentence, but for serious ailment, he deserves to be enlarged.

18. It has been further submitted that, in case, it is not considered appropriate by the Court to suspend the sentence of the applicant-appellant during the pendency of the appeal, the sentence may be suspended for a considerable period so as to enable the applicant-appellant to undergo treatment at an appropriate hospital to save his life.

19. To substantiate claim for suspension of sentence, learned counsel for the applicant-appellant has placed reliance upon judgement of Delhi High Court dated 29.05.2023 passed in **Bail**



Application No.1762 of 2022 titled as '**Vijay Agrawal vs. Directorate of Enforcement,**' whereby petitioner therein was granted bail on the ground that he was suffering from numbness of limbs, which is precursor to paralysis.

20. Reliance has also been placed on order passed by Rajasthan High Court at Jodhpur dated 24.10.2024 in **D.B. Criminal Misc. Suspension of Sentence Application (Appeal) No.1304 of 2024** titled as '**Sharwan Kumar vs. State of Rajasthan,**' whereby on the basis of medical report and condition of the applicant therein, substantive sentence awarded to the applicant for life imprisonment was suspended during pendency of the appeal.

21. Learned counsel for the applicant-appellant also referred order of Bombay High Court dated 06.05.2024 in **Bail Application No.1901 of 2024** titled as '**Naresh Goyal vs. Directorate of Enforcement & Anr.,**' wherein it has been observed as under:-

15. Infirmary, in turn, may arise from a variety of causes. Infirmary may not necessarily be on account of sickness. The Parliament has therefore advisedly used the words 'sick' or 'infirm' disjunctively. The provision is required to be construed in such a manner as to advance the guarantee of right to life under Article 21. A prisoner cannot be left in the lurch even when he is suffering from a serious ailment for the only reason that his personal liberty is deprived by operation of law. A prisoner has right to have treatment to preserve his health. It is the obligation of State to provide requisite treatment to a prisoner so as to preserve and protect his health. A prisoner is entitled to the dignity he deserves.

16. A reference to the judicial decisions in which the courts have dealt with the nature and import of the proviso to Section 45(1) of PMLA may be



apposite. In the case of Kewal Krishnan Kumar V/s. Enforcement Directorate, 2023 SCC Online Del 1547, a learned Single Judge of the Delhi High Court, after advertng to the provisions of Section 45 of the PMLA enunciated, inter alia, that a person, though not 'sick', may be 'infirm' and still entitled to seek the benefit of exception in the proviso to Section 45(1) of PMLA. The observations in paragraphs 46 and 47 read as under :

"46] Since 'sick' and 'infirm' are separated by 'or', consequently, a person who, though, not sick but infirm would still be entitled to seek the benefit of the exception in the proviso to section 45(1) PMLA and vice-versa.

47] Mere old age does not make a person 'infirm' to fall within section 45(1) proviso. Infirmary is defined as not something that is only relatable to age but must consist of a disability which incapacitates a person to perform ordinary routine activities on a day-to-day basis."

22. Reliance has also been placed upon order dated 07.01.2025 passed by Supreme Court of India in **Special Leave to Appeal (Crl.) No.15945 of 2024** titled as '**Ashumal @ Asharam vs. The State of Gujarat,**' wherein petitioner was granted bail on medical grounds for three months.

23. Taking into consideration the material placed before us and the submissions made by learned counsel appearing for both sides, we are of the opinion that sentence imposed upon the applicant-appellant deserves to be suspended for a limited period of about **six months**, so as to enable him to undergo proper treatment at a hospital of his choice, subject to the following conditions:-

- (i) the applicant-appellant shall furnish personal bond in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court on or before 15.06.2026 with



undertaking to appear before this Court as and when directed, and in the event of the dismissal of the appeal, the applicant/appellant will surrender before the Court.

- (ii) Bail bonds so furnished shall be transmitted by the Trial Court to the Registry of this Court for placing the same on record.;
- (iii) Sentence awarded to applicant-appellant shall remain suspended from 15.06.2026 to 15.12.2026 and shall surrender before the Superintendent of Jail from where he is enlarged on suspension, on or before 02:00 p.m. on 15.12.2026;
- (iv) the applicant-appellant shall also disclose, at the time of furnishing the bonds, the address of the place where he shall reside during the aforesaid period as well as the details of the medical institution where he intends to undergo treatment and in case he fails to furnish such particulars, the present order of suspension of sentence shall remain in abeyance till furnishing of complete details by him; and
- (v) the applicant-appellant shall keep on informing change of address or place of stay as well as the details of the medical institution, if any, to the Trial Court as well as concerned Police Station;
- (vi) the applicant-appellant through his learned counsel shall submit before this Court,



photocopies of the relevant treatment record and the opinion/status of the concerned Medical Officer periodically, on or before 14.08.2026, 14.10.2026 and 14.12.2026.

24. SHO of the concerned Police Station is also directed to verify the fact of surrender by applicant-appellant on or before 02:00 p.m. on 15.12.2026 and if, applicant-appellant fails to surrender, then, appropriate action against him and his surety shall be initiated in accordance with law.

25. Needless to say, the aforesaid observations made in the application, shall not have any bearing on the final adjudication of the appeal, as these observations are preliminary in nature by considering the material on record, *prima facie*, for purpose of suspension of sentence of the applicant-appellant.

26. Application is allowed and disposed of in aforesaid terms.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

4th June, 2026
(Pardeep)