

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.310 of 2022

Rabindra Sen @ Arbinda Sen **Appellant**

Versus

The State of Jharkhand **Respondent**

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Amit Kr. Das, Advocate
For the State : Mrs. Kumari Rashmi, A.P.P.

06/Dated: 19.01.2026

I.A. No.16297 of 2025

1. The instant interlocutory application has been filed under Section 430 of the B.N.S.S. for suspension of sentence dated 04.01.2022 passed by the learned Addl. Sessions Judge-I at Ghatsila, Singhbhum East in connection with Sessions Trial No.36 of 2019, whereby and whereunder, the appellant has been convicted for the offence under Section 302/34 of the I.P.C. and directed to undergo R.I. for life along with fine of Rs.20,000/-.
2. Mr. Amit Kr. Das, learned counsel for the appellant has submitted that earlier the prayer for suspension of sentence has been made by filing interlocutory application being I.A. No.1903 of 2023, which however, was dismissed vide order dated 27.02.2023 but the prayer for suspension of sentence is being renewed on the ground of total period of sentence having been undergone by the present appellant, i.e., approximately eight years.
3. He has also tried to impress upon the Court on merit.
4. Mrs. Kumari Rashmi, learned A.P.P. for the respondent-State has

vehemently opposed the prayer for suspension of sentence on the ground that the prayer for suspension of sentence has already been dealt with by this Court on 27.02.2023 and on consideration of the testimony of P.W.6, namely, Laljee Hembrom (A.S.I.), in whose presence, the dying declaration of Ananto Sen (deceased) was recorded.

5. It has also been submitted that the said order has attained its finality.
6. So far as the issue of custody is concerned, the sentence is only of eight years, one month and 20 days and as such, taking into consideration the involvement of the present appellant, it is not a fit case for suspension of sentence.
7. We have heard the learned counsel for the parties.
8. The fact about consideration of prayer for suspension of sentence has already been considered by this Court, as would be evident from the order dated 27.02.2023 passed in I.A. No.1903 of 2023.
9. It is evident from the aforesaid order dated 27.02.2023 that this Court has taken into consideration the testimony of P.W.6, namely, Laljee Hembrom (A.S.I.), in whose presence, the dying declaration of Ananto Sen (deceased) was recorded, which was the basis of rejection of prayer for suspension of sentence of the present appellant.
10. This Court, since, has taken into consideration the issue on merit and the same has not been carried out before the Higher Forum and as such, there is no question of again giving the

consideration on the issue of merit, since, the issue has already been dealt with by this Court vide order dated 27.02.2023 by dismissing the interlocutory application being I.A. No.1903 of 2023.

11. Further, it has been contended by the appellant that the prayer for suspension of sentence is being renewed on the ground of total period of sentence having been undergone by the present appellant, i.e., approximately eight years.
12. In the aforesaid context it requires to refer herein that it is the settled position of law that the period of custody cannot be the sole ground for suspension of sentence, rather, the nature of crime as has been found to be proved against one or the other, the appellant herein, is to be taken into consideration and even if the convict has completed substantive sentence, that cannot be a sole ground for suspension of sentence if the nature of offence having been proved in course of trial is serious.
13. At this juncture, it requires to refer herein that the Hon'ble Apex Court in the case of ***State of Haryana v. Hasmat, (2004) 6 SCC 175*** has observed that the appellate court is duty-bound to objectively assess the matter and to record reasons for the conclusion that the case warrants suspension of execution of sentence and grant of bail, and the order directing suspension of sentence and grant of bail should not be passed as a matter of routine, for ready reference, the relevant paragraphs of the aforesaid judgment are being quoted herein:-

"6. Section 389 of the Code deals with suspension of execution of sentence pending the appeal and release of the appellant on bail. There is a distinction between bail and suspension of sentence. One of the essential ingredients of Section 389 is the requirement for the appellate court to record reasons in writing for ordering suspension of execution of the sentence or order appealed. If he is in confinement, the said court can direct that he be released on bail or on his own bond. The requirement of recording reasons in writing clearly indicates that there has to be careful consideration of the relevant aspects and the order directing suspension of sentence and grant of bail should not be passed as a matter of routine.

7. The appellate court is duty-bound to objectively assess the matter and to record reasons for the conclusion that the case warrants suspension of execution of sentence and grant of bail. -----"

14. Further, it needs to refer herein that recently, the Hon'ble Apex Court in the case of ***Chhotelal Yadav versus State of Jharkhand & Anr. (Criminal Appeal no.4804/2025)*** has specifically observed that while considering the plea for suspension of sentence of life imprisonment is that the convict should be in a position to point out something very palpable or a very gross error in the judgment of the Trial Court on the basis of which he is able to make good his case that on this ground alone, his appeal deserves to be allowed.

15. Thus, it is settled connotation of law that even if the convict has completed substantive sentence, that cannot be a sole ground for suspension of sentence if the nature of offence having been

proved in course of trial is serious.

16. Therefore, on the basis of discussion made hereinabove, this Court is of the view that since, it is a case of conviction under Section 302 of the IPC and taking into consideration the involvement of the present appellant in the said case and the period of custody having been undergone by the appellant of about eight years, therefore, it is not a fit case for suspension of sentence of the present appellant.

17. Accordingly, I.A. No.16297 of 2025 stands dismissed.

18. It is made clear that any observation made herein will not prejudice the issue on merit as the appeal is lying pending for its consideration.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai J.)

19.01.2026
Rohit/-