



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7288 of 2025

Haidar Ali

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Manoj Kumar
Counsel for Respondent(s)	:	G.A.

Court No. - 80

HON'BLE RAJEEV MISRA, J.

Ref: Order on Memo of Appeal.

Heard Mr. Manoj Kumar the learned counsel for appellant and the learned A.G.A. for State.

Admit.

Summon the lower court record.

Notice on behalf of State-opposite party-1 has been accepted by the learned AGA.

Office has submitted a report dated 5.6.2025, stating therein that notice was issued to opposite party-2 has been served personally. However, inspite of service of notice, no one has put in appearance on behalf of opposite party-2 to oppose this application even in revised call.

Notice in respect of opposite party-3 was served in the Office of opposite party-3 before filing this appeal. However, in spite of service of notice neither any objection/counter affidavit has been filed on behalf of opposite party-3 in opposition to this application for suspension of sentence, nor any one has put in appearance on his behalf to oppose this application for suspension of sentence even in revised call.

Issue notice to opposite part-4.

Notice issued to opposite party- 4 shall be made returnable on 19.11.2025. Notice shall further indicate that matter shall re-appear before Court for

orders as fresh on 19.11.2025.

Put up this appeal for orders as fresh on 19.11.2025.

Ref: Order on Application for suspension of sentence

Heard Mr. Manoj Kumar, the learned counsel for appellant and the learned A.G.A. for State.

Perused the record.

By means of the impugned judgment and order dated 4.2.2025, passed by Special Judge (POCSO) Act/Additional Sessions Judge Court No. 13, Saharanpur in Sessions Trial No. 1810 of 2022 (State Vs. Haidar Ali) arising out of Case Crime No. 75 of 2022, under sections 354, 354D, 363, 376 IPC and Section 3/4 POCSO Act, Section 3(2)(5) and 3(2)(5)A SC/ST Act, P.S. Janakpuri, District- Saharanpur, applicant/appellant has been convicted under section 363, 376 IPC and also sentenced to a maximum of 10 years sentence along with fine.

Since applicant/appellant has been convicted under the POCSO Act also, therefore, no order can be passed by this Court on the application for suspension of sentence filed by applicant/appellant without hearing the first informant-opposite party-2.

Apart from above, as the sentence awarded to applicant/appellant is 10 years, therefore, by reason of the provisions contained in Section 430 BNSS, the learned A.G.A. is mandatorily required to file his objections/counter/affidavit to the application for suspension of sentence before any order can be passed by this Court on the application for suspension of sentence.

Notice on behalf of State-opposite party-1 has been accepted by the learned AGA.

Office has submitted a report dated 5.6.2025, stating therein that notice issued to opposite party-2 has been served personally. However, inspite of service of notice, no one has put in appearance on behalf of opposite party-2 to oppose this application for suspension of sentence even in revised call.

Notice in respect of opposite party-3 was served in the Office of opposite party-3, High Court, Legal Service committee before filing this appeal.

However, in spite of service of notice neither any objection/counter affidavit has been filed on behalf of opposite party-3 in opposition to this application for suspension of sentence, nor any one has put in appearance on his behalf to oppose this application for suspension of sentence even in revised call.

Issue notice to opposite part-4.

Notice issued to opposite party- 4 shall be made returnable on 19.11.2025. Notice shall further indicate that matter shall re-appear before Court for orders as fresh on 19.11.2025.

All the opposite parties shall file their respective objections/counter affidavits to the application for suspension of sentence within four weeks.

Learned AGA shall also bring on record the custody certificate of applicant/appellant along with counter affidavit to be filed by him.

Applicant/appellant will have two weeks thereafter to file his rejoinder affidavits.

Put up this appeal again for orders as fresh on 19.11.2025.

By the next date, the learned counsel for applicant-appellant shall file a list of dates, brief synopsis containing the details of prosecution evidence (oral and documentary), material exhibits, defence evidence, points raised before Court below and the findings returned by Court below.

September 24, 2025
Arshad

(Rajeev Misra,J.)