

**Court No. - 80**

**Case :- CRIMINAL APPEAL No. - 4350 of 2025**

**Appellant :- Pradeep**

**Respondent :- State Of U.P. And 3 Others**

**Counsel for Appellant :- Ajay Kumar Jagdish,Prabha Shanker Mishra**

**Counsel for Respondent :- G.A.,Swati Agrawal Srivastava**

**Hon'ble Rajeev Misra,J.**

**( Order on the Memo of Appeal)**

1. Heard Mr. Ram Kumar Dubey, Advocate holding brief of Mr. Prabha Shanker Mishra, the learned counsel for appellant, the learned A.G.A. for State-opposite party-1 and Ms. Swati Agrawal Srivastava, the learned counsel representing first informant/opposite party-3
2. Vide order dated 20.06.2025, the appeal was admitted, trial court record was summoned and notice was issued to first informant/opposite party-3.
3. Office has submitted a report dated 26.07.2025 stating therein that trial court record is awaited. 4. In view of above, office is directed to expedite the summoning of trial court record.
4. Notice on behalf of State-opposite party-1 has been accepted by the learned A.G.A.
5. Issue notice to opposite party-2. Notice issued to opposite party-2 shall be made returnable on 09.09.2025. Notice shall further indicate that matter shall re-appear before Court for orders as fresh on 09.09.2025.
6. Ms. Swati Agrawal Srivastava, Advocate has put in appearance on behalf of first informant/opposite party-3.

7. Notice in respect of opposite party-4, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-4 before filing the present appeal. However, in spite of service of notice, no one has put in appearance on behalf of opposite party-4 to oppose this appeal even in revised call.

8. Put up this appeal for orders as fresh on 09.09.2025.

**Ref.: Order on the application for suspension of sentence.**

1. Heard Mr. Ram Kumar Dubey, Advocate holding brief of Mr. Prabha Shanker Mishra, the learned counsel for applicant/appellant, the learned A.G.A. for State-opposite party-1 and Ms. Swati Agrawal Srivastava, the learned counsel representing first informant/opposite party-3

2. Perused the record.

3. By means of the impugned judgement and order dated 24.04.2025/28.04.2025 passed by court below, applicant/appellant has been convicted under Section 377 I.P.C. and Section 5M/6 of the POCSO Act but has been sentenced for a maximum period of 20 years rigorous imprisonment alongwith fine.

4. Since applicant/appellant has been sentenced for a period of more than 10 years, therefore in view of above and also the provisions existing in Section 430 BNSS, the learned A.G.A. representing State-opposite party-1 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.

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

6. Issue notice to opposite party-2. Notice issued to opposite party-2 shall be made returnable on 09.09.2025. Notice shall further

indicate that matter shall re-appear before Court for orders as fresh on 09.09.2025.

7. Ms. Swati Agrawal Srivastava, Advocate has put in appearance on behalf of first informant/opposite party-3

8. Notice in respect of opposite party-4, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-4 before filing the present appeal. However, in spite of service of notice,, neither any objection/counter affidavit has been filed on behalf of opposite party-4 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.

9. All the opposite parties may file their respective objections/counter affidavits to the application for suspension of sentence within four weeks. Learned A.G.A. shall also bring on record the custody certificate of applicant/appellant alongwith the counter affidavit to be filed by him. Applicant/appellant will have two weeks thereafter to file his rejoinder affidavits.

10. Put up this appeal again for orders as fresh on 09.09.2025.

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

**Order Date :- 29.7.2025**

YK