

Court No. - 80

Case :- CRIMINAL APPEAL No. - 5973 of 2025

Appellant :- Chintu Alias Mohit

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

Counsel for Appellant :- Adesh Kumar, Barkha Chaudhary

Counsel for Respondent :- G.A.

Hon'ble Rajeev Misra, J.

Ref: Order on Memo of Appeal.

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

At the very outset, the learned counsel for appellant submits that in the description occurring at page 3 of the paper book as well as at the bottom of the same page, section 50 has wrongly been transcribed inadvertently. The correct description is Section 5 (m) POCSO Act. He, therefore seeks permission of Court to correct aforementioned inadvertent mistake.

Prayer made by the learned counsel for appellant is bonafide. The same is not opposed by the learned A.G.A.

Accordingly, it is allowed.

Admit.

Summon the lower court record.

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

Issue notice to opposite parties- 2 and 4.

Notice issued to opposite parties- 2 and 4 shall be made returnable on 27.08.2025. Notice shall further indicate that matter shall re-appear before Court as fresh on 27.08.2025.

Notice in respect of opposite party-3 was served in Office of opposite party-3 before filing this appeal. However, in spite of service of notice no one has put in appearance on behalf of opposite party-3 to oppose this appeal even in revised call.

Put up this appeal for orders as fresh on 27.08.2025.

Ref: Order on Application for suspension of sentence

Heard Mr. Adesh Kumar, the learned counsel for applicant/appellant and the learned A.G.A. for State.

Perused the record.

By means of the impugned judgment and order, applicant/appellant has been convicted under Sections 376 AB and 5M/6 POCSO Act, and therefore sentenced to maximum sentence of 20 years.

Since applicant/appellant has been convicted and sentenced 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-4.

Apart from above, since the sentence awarded to applicant/appellant is more than 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.

Issue notice to opposite parties- 2 and 4.

Notice issued to opposite parties- 2 and 4 shall be made returnable on 27.08.2025. Notice shall further indicate that matter shall re-appear before Court as fresh on 27.08.2025.

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 no one has put in appearance on behalf of opposite party-3 to oppose this appeal even in revised call.

All the opposite parties may 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 27.08.2025.

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.

Order Date :- 15.7.2025

Arshad