

Court No. - 80

Case :- CRIMINAL APPEAL No. - 6480 of 2025

Appellant :- Rajesh Kumar

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

Counsel for Appellant :- Chandra Prakash Garg

Counsel for Respondent :- G.A.

Hon'ble Rajeev Misra,J.

(Order on the Memo of Appeal)

1. Heard Mr. Chandra Prakash Garg, the learned counsel for appellant and the learned A.G.A. for State.
2. Admit.
3. Summon the lower court record.
4. Notice on behalf of State-opposite party-1 has been accepted by the learned A.G.A.
5. Notice in respect of opposite party-2, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-2 before filing the present appeal. However, in spite of service of notice, no one has put in appearance on behalf of opposite party-2 to oppose this appeal even in revised call.
6. Issue notices to opposite parties-3 and 4. Notices issued to opposite parties-3 and 4 shall be made returnable on 04.09.2025. Notices shall further indicate that matter shall re-appear before Court for orders as fresh on 04.09.2025.
7. Put up this appeal for orders as fresh on 04.09.2025.

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

1. Heard Mr. Chandra Prakash Garg, the learned counsel for applicant/appellant and the learned A.G.A. for State.
2. Perused the record.

3. By means of the impugned judgement and order dated 26.05.2025/27.02.2025 passed by court below, applicant/appellant has been convicted under Sections 452, 354B, 352, 376, 506 I.P.C. and Section 4 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 convicted and sentenced under the provisions of POCSO Act also, therefore, no order can be passed by this court on the application for suspension of sentence without first hearing the first informant/opposite party-4.

5. Apart from above, since applicant/appellant has been sentenced for a period of more than 10 years, therefore by reason 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.

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

7. Notice in respect of opposite party-2, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-2 before filing the present appeal, but in spite of service of notice, neither any objection/counter affidavit has been filed on behalf of opposite party-2 in opposition to this application for suspension of sentence nor any one has put in appearance on his behalf to oppose the application for suspension of sentence even in revised call.

8. Issue notices to opposite parties-3 and 4. Notices issued to opposite parties-3 and 4 shall be made returnable on 04.09.2025. Notices shall further indicate that matter shall re-appear for orders

as fresh on 04.09.2025.

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 04.09.2025.

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 :- 24.7.2025

YK