



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7583 of 2025

Mahmood

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Neeraj Srivastava
Counsel for Respondent(s)	:	G.A.

Court No. - 92

HON'BLE JAI PRAKASH TIWARI, J.

Order on Criminal Misc. Suspension of Sentence Application

Heard learned counsel for the appellant, as well as learned A.G.A. for the State and perused the material on record.

This criminal appeal under Section 415(2) of Bhartiya Nagrik Suraksha Sanhita has been preferred with the prayer to allow this application and release the appellant on bail in Special Criminal (Sexual) Case No. 02 of 2016; titled State vs. Mahmood, arising out of Case Crime No. 1132 of 2015, under Sections 363, 376 IPC and Section 3/4 POCSO Act, Police Station Siddhartha Nagar, District Siddhartha Nagar, arising out of judgment of conviction and order of sentence dated 26.07.2025 passed by learned Additional District and Sessions Judge/Special Judge (POCSO Act), Siddhartha Nagar, and further prays to stay realization of fine during the pendency of appeal.

It is submitted by learned counsel for the appellant that the appellant is innocent and has been falsely implicated in the subject case. He further submits that as per the radiologist, victim was major aged above 18 years at the time of alleged incident. It is further submitted that during cross-examination, victim and other witness do not support the prosecution version. It is next submitted that as per medical report, there was no external or internal injury on the person of the victim. No video related to alleged incident was recovered. There are material contradictions in the statements of prosecution witnesses. It is next submitted that the learned trial court did not appreciate the evidence on record in proper way but convicted and sentenced the appellant for a maximum period of seven years rigorous imprisonment, under Section

376 IPC read with Section 3/4 POCSO Act, with the fine of Rs. 50,000/- and in default of payment, he shall serve six months additional imprisonment. Appellant was on bail during trial and never misused the liberty of bail. Appellant is in jail since 26.07.2025. As per custody certificate appended along with the counter affidavit filed on behalf of the State, the accused-appellant has already served the sentence of more than eight months including remission. Since hearing of appeal is also not likely to be completed in near future, therefore, requested to release the appellant on bail during the pendency of appeal.

Learned A.G.A. opposed the bail.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellant, as well as learned A.G.A. and perusal of record, judgment passed by learned trial court particularly the facts submitted by the learned counsel for the appellant, during trial he was on bail and never misused the liberty of bail, and none possibility of hearing of appeal in near future. Resultantly, without meaning any expression of opinion on the merits of the appeal, the applicant/appellant is entitled to be enlarged on bail.

Accordingly, the application is allowed.

Let **appellant-Mahmood** be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned during pendency of this appeal.

On acceptance of the bail bonds, the court below shall transmit the xerox copies thereof to this Court for being kept on record.

Realization of entire fine shall be deposited by the appellant within one month from the date of his release before the Court below.

Order on Appeal

List this appeal in due course.

(Jai Prakash Tiwari,J.)

February 19, 2026

Brijesh