

Court No. - 80

Case :- CRIMINAL APPEAL No. - 7325 of 2025

Appellant :- Amit Alias Toni

Respondent :- State of U.P.

Counsel for Appellant :- Bipin Kumar, Jai Prakash

Counsel for Respondent :- G.A.

Hon'ble Rajeev Misra, J.

(Ref:-Order on the Memo of Appeal)-

1. Heard Mr. Jai Prakash Sharma, the learned counsel for appellant and the learned A.G.A. for State-opposite party-1.
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 i.e. High Court Legal Services Committee, High Court, Allahabad has already been 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 notice to opposite parties 3 and 4. Notices issued to opposite parties-3 and 4 shall be made returnable on 09.10.2025. Notices shall further indicate that matter shall re-appear for orders as fresh on 09.10.2025.
7. Put up this appeal for orders as fresh on 09.10.2025.

(Ref:-Order on the Application for Suspension of Sentence)-

1. Heard Mr. Jai Prakash Sharma, the learned counsel for applicant/appellant and the learned A.G.A. for State-opposite party-1.
2. Perused the record.
3. By means of the impugned judgment and order dated 31.07.2025 passed by Additional District and Sessions

Judge/Special Judge (POCSO Act) Court No.-2, Ghaziabad in Special Criminal Trial No. 33 of 2015 (State of U.P. Vs. Amit @ Toni), arising out of Case Crime No. 1718 of 2014, under Sections 376(2)(I), 342, 506 IPC, Section 3/4 of the POCSO Act and Section 3(2)(V) SC/ST Act, Police Station-Indirapura, District-Ghaziabad, whereby applicant/appellant has been convicted under Sections 376(2)(I), 342, 506 IPC, Section 3/4 of the POCSO Act and Section 3(2)(V) SC/ST Act, applicant/appellant, who has, however, been sentenced to a maximum period of 10 years rigorous imprisonment along with fine.

4. Since applicant/appellant has been convicted and sentenced under the POCSO Act also, therefore, no orders can be passed by this Court on the application for suspension of sentence/prayer for bail without first hearing the complainant/first informant-opposite party-4.

5. Apart from above, since the sentence awarded to applicant/appellant by Court below is 10 years, therefore, by virtue of the provisions existing in proviso to Section 430 BNSS, the learned A.G.A. for State 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 aforementioned application.

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

8. Issue notice to opposite parties 3 and 4. Notices issued to opposite parties-3 and 4 shall be made returnable on 09.10.2025. Notices shall further indicate that matter shall re-appear for orders as fresh on 09.10.2025.

9. All the opposite parties may file their respective objections/counter affidavits to the application for suspension of sentence within 4 weeks. Learned A.G.A. shall bring on record the custody certificate of applicant-appellant along with counter

affidavit to be filed by him.

10. Applicant-appellant will have 2 weeks thereafter to file his rejoinder affidavits to the same.

11. Put up this appeal for orders as fresh on 09.10.2025.

12. 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 :- 21.8.2025

Vinay