



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 7769 of 2025

Anuj Kumar Kushwaha

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Gaytri Rajput, Indra Pal Singh Rajpoot
Counsel for Respondent(s)	:	G.A.

Court No. - 80

HON'BLE RAJEEV MISRA, J.

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

1. Heard Mr. Indra Pal Singh Rajpoot, 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. Issue notice to opposite parties-2 and 4. Notices issued to opposite parties-2 and 4 shall be made returnable on 28.10.2025. Notices shall further indicate that matter shall re-appear for orders as fresh on 28.10.2025.
6. Notice in respect of opposite party-3 i.e. High Court Legal Services Committee, High Court, Allahabad already served in the office of opposite party-3 before filing the present 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.
7. Put up this appeal for orders as fresh on 28.10.2025.

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

1. Heard Mr. Indra Pal Singh Rajpoot, 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 06.08.2025/07.08.2025 passed by Additional District and Sessions Judge/Special Judge (POCSO Act), Jalaun at Orai in Special Case No. 57 of 2023 (State of UP Vs. Anuj Kumar Kushwaha), arising out of Case Crime No. 139 of 2023, under Sections 363, 366, 376(3) IPC and Sections 3/4(2) POCSO Act, applicant/appellant has been sentenced for a maximum of 20 years imprisonment along with fine and in case of default, applicant/appellant is to undergo further incarceration.

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 first informant-opposite party-2.

5. Apart from above, since the sentence awarded to applicant/appellant by Court below is more than 10 years, therefore, by virtue of the provisions existing in proviso to Section 430(1) BNSS, the learned A.G.A. for 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 aforementioned application.

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

7. Issue notice to opposite parties-2 and 4. Notices issued to opposite parties-2 and 4 shall be made returnable on 28.10.2025. Notices shall further indicate that matter shall re-appear for orders as fresh on 28.10.2025.

8. Notice in respect of opposite party-3 i.e. High Court Legal Services Committee, High Court, Allahabad has already been served in the office of opposite party-3 before filing the present appeal. However, in spite of service of notice, neither any counter affidavit has been filed by opposite party-3 in opposition to this application for suspension of sentence/prayer for bail nor any one has put in appearance on behalf of opposite party-3 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 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 28.10.2025.

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.

September 1, 2025

Vinay

(Rajeev Misra,J.)