



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 8774 of 2025

Vikas

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Abhishek Kumar Saroj, Sunil Kumar
Counsel for Respondent(s)	:	G.A.

Court No. - 80

HON'BLE RAJEEV MISRA, J.

(Order on the Memo of Appeal)

1. Heard Mr. Sunil Kumar, 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 notices to opposite parties-2 and 3. Notices issued to opposite parties-2 and 3 shall be made returnable on 20.11.2025. Notices shall further indicate that matter shall re-appear before Court for orders as fresh on 20.11.2025.
6. Notice in respect of opposite party-4, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-4 before filing the present appeal. However, in spite of service of notice, no one has put in appearance on behalf of opposite party-4 to oppose this appeal even in revised call.
7. Put up this appeal for orders as fresh on 20.11.2025.

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

1. Heard Mr. Sunil Kumari, 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 20.08.2025

passed by Special Judge (POCSO Act) Additional Sessions Judge, Bareilly in Special Criminal Case No. 96 of 2023 (State of U.P. Vs. Vikas) arising out of Case Crime No. 28 of 2023 under Sections 363, 366, 376 (2) (n), 376 (3) I.P.C and Sections 4 (2), 5/6 of the POCSO Act, Police Station-Visharat Ganj, District-Bareilly, applicant/appellant has been convicted under Sections 363, 366, 376 (2) (n) I.P.C and Sections 4(2) of the POCSO Act but has been sentenced to a maximum period of 20 years rigorous imprisonment alongwith fine and in case of default in payment of fine, applicant/appellant is to undergo further incarceration.

4. Since applicant/appellant has been convicted and sentenced under Sections 4 (2) of the 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-2.

5. Apart from above, since sentence awarded to applicant/appellant by court below is more than 10 years, therefore in view 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. Issue notices to opposite parties-2 and 3. Notices issued to opposite parties-2 and 3 shall be made returnable on 20.11.2025. Notices shall further indicate that matter shall re-appear before Court for orders as fresh on 20.11.2025.

8. Notice in respect of opposite party-4, High Court Legal Services Committee, High Court Allahabad was already served in the office of opposite party-4 before filing the present appeal. However in spite of service of notice, neither any objection/counter affidavit has been filed on behalf of opposite party-4 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.

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 20.11.2025.

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

(Rajeev Misra,J.)

September 25, 2025

YK