

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(s). _____ OF 2026
(Arising out of SLP (CrI.) No(s).4045 of 2026)

TARUN

APPELLANT(S)

VERSUS

STATE OF U.P & ORS.

RESPONDENT(S)

O R D E R

- 1. Leave granted.**
- 2. The appellant herein was convicted by the jurisdictional Sessions Court under Sections 354-D and 506 of IPC and Section(s) 7/8 of the POCSO Act and sentenced to one year's simple imprisonment and a fine of Rs.10,000/- (Rupees Ten Thousand Only) for the offence under Section 506 of the IPC and in default of payment of fine, to undergo simple imprisonment of two months. For the offence(s) under Section(s) 7/8 of the POCSO**

Act, he was sentenced to undergo three years' rigorous imprisonment and a fine of Rs.90,000/-, with a default clause, to undergo further six months' simple imprisonment.

3. Immediately on being sentenced, an application under Section 389(3) of the Cr.P.C. was filed, seeking grant of bail. Till the appeal against the judgment of conviction and sentence was filed and application for suspension of sentence was considered by the jurisdictional High Court, the learned Sessions judge sympathetically considered the said application and by judgment and order dated 15.07.2025 allowed the application by observing as under:

"Therefore, on the basis of the above facts and circumstances, the convicted accused Tarun son of Devendra till the time of presenting appeal before the Hon'ble High Court and getting the order of regular bail from the Hon'ble High Court during the pendency of appeal should be released on interim bail from the court itself on filing of appeal before the Honourable High Court and on executing a personal bond of Rs.20,000/- and two sureties of the same amount and on depositing the imposed fine."

4. Subsequently, the appeal was filed. The learned High Court noticed that the Sessions Judge has also granted bail during the pendency of the appeal and called upon the learned Sessions Judge to offer an explanation, to which the letter/explanation dated 03.02.2026 was offered by the learned Sessions Judge stating therein that the interim bail granted was for a limited period till the filing of appeal but due to typographical error, it has also been mentioned that the accused-appellant is released on interim bail, during the pendency of the appeal which was not the intent of the order.

5. Though the learned counsels appearing for both the parties would vehemently buttress their arguments in support of their contentions, without going into the merits of the same, it would suffice and meet the ends of justice if it is clarified that the learned Sessions Judge has exercised the power under sub-section (3) of

Section 389 of CrPC to grant bail as the maximum sentence punishment imposed on the appellant was 3 years and he could have exercised the power so vested in the Court and, accordingly, it has been exercised which cannot be faulted with. However, the learned Sessions Judge seems to have committed an error in opining that the bail should also operate even during the pendency of the appeal which was not within his scope or power or jurisdiction. And the said factual error found in the order has been regretted to be typographical error and *bona fide* mistake by the learned Sessions Judge.

6. For the said error having occurred at the hands of Sessions Judge, the litigant cannot be penalized and in the instant case, the High Court had rightly frowned upon the procedure adopted by the learned Sessions Judge as being erroneous and without jurisdiction and has also directed the appellant to surrender before the jurisdictional Court within one week by completely ignoring the fact that the appellant was already on bail during the period of trial and even after

imposition of sentence by the jurisdictional Court, the Sessions Court itself had exercised the power vested under sub-section (3) of Section 389 CrPC and rightly so. Hence, the directions issued to the appellant to surrender though cannot be faulted inasmuch as the learned counsel for the appellant himself had made the said concession before the High Court, yet faced with this situation, we are of the considered view that ends of justice would be met the direction issued by the appellant to surrender before the trial Court is set aside and we request the High Court to consider the application filed for suspension of sentence and grant of bail on its own merits without being influenced by the order of the learned Sessions Judge or the order passed by this Court in setting aside the direction referred to therein (supra).

7. Accordingly, the appeal stands allowed.

8. Pending application(s), if any, shall stand disposed of.

.....J.
(ARAVIND KUMAR)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
APRIL 20, 2026.

ITEM NO.30

COURT NO.14

SECTION

II

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

**Criminal Appeal No.2033/2026 in SLP (Crl)
No.4045/2026**

TARUN

Appellant(s)

VERSUS

STATE OF U.P & ORS.

Respondent(s)

**Date : 20-04-2026 This appeal was called on for
hearing today.**

**CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE PRASANNA B. VARALE**

**For Appellant(s) : Mr. Shubham Singh, AOR
Mr. Aditya Singh, Adv.
Mr. Kamal Kishore, Adv.**

For Respondent(s) :

**UPON hearing the counsel the Court made the
following
O R D E R**

**The appeal stands allowed in terms
of the signed order.**

**Pending application(s), if any,
shall also stand disposed of.**

**(KRITIKA TIWARI)
SENIOR PERSONAL ASSISTANT**

**(AVGV RAMU)
COURT MASTER (NSH)**

{signed order is placed on file}