



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

(CRIMINAL APPEAL NO.002660/2026)
(@SLP (CRL.) No. 009659/2026)
(@SLP (CRL.) Diary No. 15467/2026)

SURESH @ RAJESH

Appellant(s)

VERSUS

THE STATE OF M.P. THRU. PS.
INDUST. AREA. DEWAS (MADHYA PRADESH).

Respondent(s)

O R D E R

1. Delay condoned.
2. Issue notice. Mr. P.N. Razdan, learned AOR, who is on advance notice, accepts and waives service of notice on behalf of the respondent-State.
3. Leave granted.
4. Appellant who is an accused before the trial court was tried for the offence punishable under Section 307 IPC, for which he has been convicted and directed to undergo five years' rigorous imprisonment.
5. A Criminal Appeal No. 1239 of 2008 came to be filed before the High Court of Madhya Pradesh at Indore and by the impugned order, the appeal has been dismissed. Hence, the present appeal.
6. The sole ground on which the impugned order is challenged is that the appeal has been disposed of in absence of the counsel for

the appellant and without even appointing an *amicus curiae*.

7. On the other hand, learned counsel appearing for the respondent-State would submit that on account of absence of counsel, warrant came to be issued for securing the presence of the appellant and despite such warrant, he could not be secured initially. As such, the Appellate Court has proceeded to adjudicate the appeal on merits.

8. Having heard the learned counsels for both the parties and on perusal of the impugned Order dated 22.02.2024, we notice that the appellant, though was represented by a learned counsel, did not appear to conduct the appeal, as such the Appellate Court was performed to proceed to adjudicate the appeal on merits. This procedure which has been adopted is against the established principles of law and on that short ground itself, the impugned order is liable to be set aside.

9. In such circumstances, the only course left open to the Appellate Court was to appoint an *amicus curiae* and conduct the case and not having undertaken such an exercise, the appeal having been disposed of in the absence of the appellant and his counsel, same would not stand the test of law.

10. Hence, we allow this appeal, set aside the impugned order and remand the matter back to the High Court for disposing of the Criminal Appeal No. 1239/2008 on merits and in accordance with law and in the event of appellant failing to appear on the date which we fix as 22.06.2026 without waiting for further notice and in the

event, appellant failing to engage a counsel and appearing, the High Court would be at liberty to appoint an *amicus curiae* or a counsel from the High Court Legal Services Committee to conduct the appeal and proceed to adjudicate the appeal on merits.

11. We also notice that during the pendency of the appeal, the sentence was suspended and appellant was granted bail and now by virtue of appeal having been dismissed on merits in the absence of the appellant, who is said to have been taken into custody to undergo the balance period of sentence. Hence, we direct the suspension of sentence and order for release of the appellant on such terms and conditions as jurisdictional trial Court may impose and appellant shall appear on 22.06.2026 before the High Court as notified herein above.

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

.....J

[ARAVIND KUMAR]

.....J

[PRASANNA B. VARALE]

New Delhi;
19 May, 2026.

ITEM NO.21

COURT NO.14

SECTION II-E

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 15467/2026

[Arising out of impugned final judgment and order dated 22-02-2024 in CRLA No. 1239/2008 passed by the High Court of Madhya Pradesh at Indore]

SURESH @ RAJESH

Petitioner(s)

VERSUS

THE STATE OF M.P. THRU. PS.
INDUST. AREA. DEWAS (MADHYA PRADESH).

Respondent(s)

[IA No. 146157/2026 - CONDONATION OF DELAY IN FILING, IA No. 146159/2026 - CONDONATION OF DELAY IN REFILEING/CURING THE DEFECTS, IA No. 146156/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 146158/2026 - EXEMPTION FROM FILING O.T.]

Date : 19-05-2026 This matter was called on for hearing today.

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

For Petitioner(s) :Mr. Himanshu Chaubey, AOR
Ms. Lihzu Shiney Konyak, Adv.

For Respondent(s) :Mr. P.N. Razdan, AOR
Mr. Yashveer Singh, Adv

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

1. Delay condoned.
2. Leave granted.
3. The Criminal Appeal is allowed in terms of the signed order which is placed on the file.

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

(DEEPANSHU)
SENIOR PERSONAL ASSISTANT

(AVGV RAMU)
COURT MASTER (NSH)