



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

**CRIMINAL APPEAL NO. _____ OF 2024
[arising out of SLP (Crl.) No. 14421/2024]**

ABHAY JAISWAL

Appellant

VERSUS

THE STATE OF MADHYA PRADESH

Respondent

ORDER

1. Leave granted.
2. The High Court of Madhya Pradesh by the impugned judgment and order dated 31st July, 2024¹ has declined the appellant's prayer for suspension of sentence under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023².
3. In fact, the impugned order of the High Court rejects the second application for suspension of sentence despite the fact that the appellant was sentenced to imprisonment for 5 (five) years for offences committed under Sections 407, 420, 468, 471, 34 of the Indian Penal Code, 1860.
4. We have heard learned counsel appearing on behalf of the parties. We have noted that the appellant has been behind bars for more than 8 (eight) months.
5. The appellant has voiced a grievance that although he has an arguable case in his appeal, the appeal may not be heard at any time prior to his serving out the sentence having regard to the huge pendency of appeals before the High Court.

1 impugned order

2 BNSS

6. The appeal that the appellant has filed before the High Court is in exercise of his statutory right conferred by the BNSS. The maximum period for which the appellant can be imprisoned in terms of the sentence imposed by the trial court is 5 (five) years. As noted, he has spent 8 (eight) months in custody. Pendency of criminal appeals before the High Court is quite high and the possibility of the appeal being heard in the near future is fairly remote. There is, thus, a genuine apprehension in the mind of the appellant that his appeal could be rendered infructuous by passage of time without the same being taken up for consideration. When the appellant had applied a second time for suspension of suspension, the High Court would be well-advised to fix a date for final hearing of the appeal requiring the appellant to have the same argued. Had the appellant declined to argue the appeal finally, rejection of the prayer for suspension of sentence would definitely be an option then. No such attempt appears to have been made. In these circumstances, we fail to comprehend as to what was the justification for the High Court to deny the relief of suspension of sentence to the appellant. Declining relief in such a case has given rise to this appeal, quite unnecessarily. We, thus, do not find the approach of the High Court to be justified, on facts and in the circumstances.

7. The impugned order is, accordingly, set aside.

8. The sentence imposed by the trial court shall remain suspended till disposal of the appellant's appeal before the High Court and he shall be released on bail, pending decision on his appeal, subject to such terms and conditions as may be imposed by the trial court.

9. We clarify that the observations made in this order and grant of bail will not be treated as findings on the merits of the case.

10. The appellant shall actively pursue his appeal before the High Court and

should a prayer for hearing of the appeal be made, the same may be considered reasonably. If the prayer is granted by the High Court, the appellant shall extend due cooperation to take the appeal to its logical conclusion. In the event of the High Court willing to proceed with hearing of the appeal but the appellant abstaining from attending proceedings, the High Court shall be free to pass appropriate orders including cancellation of bail.

11. Also, if it is brought to the notice of the High Court by the respondent-State that the appellant has breached any of the terms and conditions for grant of bail, the High Court shall be at liberty to cancel the bail.

12. The appeal is, accordingly, allowed on the aforesaid terms.

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

14. The respondent-State shall be at liberty to seek early hearing of the appeal by citing this order before the High Court if no attempt is made by the appellant in this behalf.

.....J.
[DIPANKAR DATTA]

.....J.
[SANDEEP MEHTA]

**New Delhi;
December 03, 2024.**

ITEM NO.6

COURT NO.16

SECTION II-A

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 14421/2024

[Arising out of impugned final judgment and order dated 31-07-2024 in CRA No. 4191/2024 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

ABHAY JAISWAL

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

FOR ADMISSION and I.R. and IA No.240146/2024-EXEMPTION FROM FILING O.T.

Date : 03-12-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Nitin Saluja, AOR
Mr. Harsh Gattani, Adv.
Ms. Pranya Madan, Adv.

For Respondent(s)

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

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. Pending application(s), if any, stand disposed of.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

[Signed order is placed on the file]