



2026:DHC:9263



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision : 14.10.2026

CNR No.DLHC010498712026

+ CRL.A. 1032/2026

SALMAN

.....Appellant

Through: Mr. Sarthak Karol, Ms. Neelakashi
Bhadauria, Ms. Laavanya Agrawal,
Advs.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh (APP)

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)****CRL.M.A. 32554/2026** (Exemption from filing certified and original copies of annx.)

1. The application is disposed of with a direction to the appellant to file certified and original copies of the annexures, before the next date of hearing.

CRL.A. 1032/2026

2. The present appeal has been filed through the Delhi High Court Legal Services Committee (DHCLSC) assailing the judgment of conviction dated 19.08.2026 and order on sentence dated 01.09.2026 arising out of FIR No. 504/2020 registered at P.S. Amar Colony under Sections 392/397/411/34 of the IPC passed by the Principal District & Sessions Judge (South-East), Saket Courts, New Delhi.

3. Admit.

4. Let the trial Court record be requisitioned.

5. Let the appeal be listed at its own turn.



CRL.M.(B) No.1994/2026(Seeking Suspension of Sentence)

6. The present application has been filed under Section 430 read with Section 528 of the BNSS, 2023 seeking suspension of sentence and release of the appellant on regular bail during the pendency of the appeal.

7. The allegation of the prosecution is that at about 08:30 P.M. on 09.12.2020, three persons robbed the complainant of his mobile phone. The three persons were apprehended, and the robbed mobile phone was recovered from the appellant. The learned trial Court held that the charge under Section 394 IPC was not proved, since there was no injury or MLC. The trial Court relied upon the recovery of the phone to connect the appellant with the robbery.

8. It is informed that, as per the Nominal Roll, the appellant has undergone 11 months and 04 days in custody, including the period of under-trial custody. He remained on bail during most of the trial till his conviction. His jail conduct report is stated to be satisfactory.

9. It is noticed that the sentence is a fixed-term sentence and the appellant has already undergone about one-fifth of it. The appeal is unlikely to be heard before he serves a substantial part of the sentence. It is also relevant that the appellant was on bail during the trial and did not misuse that liberty.

10. Learned counsel for the appellant contends that arguable points arise in the appeal, namely, the PW-1's identification of the appellant and the disparity between his sentence and that of the co-accused. It is further contended that the appeal is likely to take considerable time.

11. The principles governing the suspension of a fixed term sentence pending appeal are well settled, Section 430 of the BNSS, 2023 being in *pari materia* with Section 389 of the Cr.P.C., 1973. In the landmark judgement of



Bhagwan Rama Shinde Gosai & Ors. v. State of Gujarat, (1999) 4 SCC 421, a case which itself arose out of a conviction under Section 392 read with Section 397 IPC, the Supreme Court observed as under:

“When a convicted person is sentenced to fixed period of sentence and when he files appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when motion for expeditious hearing the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of suspending the sentence, so as to make the appeal right meaningful and effective. Of course appellate courts can impose similar conditions when bail is granted.”

12. These principles have recently been reiterated by the Supreme Court in ***Aasif @ Pasha v. State of U.P.***, 2025 INSC 944, wherein it has been held that suspension of a fixed term sentence is to be considered liberally, and ought to be declined only where there are compelling circumstances on record to indicate that the release of the appellant would not be in the public interest. The relevant observations are as under:

“12. Way back in 1999, this Court in “Bhaqwan Rama Shinde Gosai and Others v. State of Gujarat” reported in (1999) 4 SCC 421 stated that when a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence should be considered by the Appellate Court liberally unless there are exceptional circumstances.

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17. When the Appellate Court finds that due to practical reasons, such appeals cannot be disposed of expeditiously, the Appellate Court must show special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. At the same time, the appellate courts can impose similar conditions when appeal is granted.

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22. ... **The High Court shall keep in mind that the sentence is for a fixed term, i.e. 4 years and it is only if there are any compelling circumstances on record to indicate that the release of the appellant would not be in public interest that the Court may order accordingly.**”

13. Considering the circumstances, and the *dicta* laid down in the aforesaid judgements, the substantive sentences of the appellant, including the fines, are suspended during the pendency of the appeal. The appellant shall be released on furnishing a personal bond in the sum of Rs. 10,000/- with a surety of the like amount to the satisfaction of the Trial Court, subject to the following conditions:

- i. The appellant shall not leave the NCT of Delhi without prior permission of this Court;
- ii. The appellant shall furnish the address, where he will be residing, to the concerned Jail Superintendent and the Investigating Officer (I.O.);
- iii. The appellant shall forthwith intimate the Investigating Officer/SHO concerned of any change in his residential address or contact details and shall not change the same without prior intimation to the I.O.;
- iv. The appellant shall furnish his mobile number to the Investigating Officer/SHO concerned and shall keep the same switched on at all times, with locations services enabled, and the same shall be shared with the I.O.;
- v. The appellant shall not directly or indirectly contact the



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complainant/victim or the family members of the victim;

- vi. The appellant shall not indulge in any criminal activity during the period of bail;
 - vii. The appellant shall report to the concerned SHO on the first Monday of every month at 11:00 a.m. and shall be discharged by 12:00 noon after recording his presence and completion of the necessary formalities.
14. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the pending appeal.
15. It is made clear that any breach of the aforesaid condition shall entitle the State to seek cancellation of this order.
16. The application is disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 14, 2026/uk