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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 30.09.2026# CNR No.DLHC011044522025+ CRL.REV.P. 537/2025

VICKY

.....Petitioner

Through: Ms. Gunjan Sinha Jain and Mr.
Utkarsh, Advs.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State
along with S.I. Rupesh Raj, PS.
Subhash Place.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

CRL.M.(BAIL) 2527/2025 (UNDER SECTION 430 READ WITH SECTION 528 OF THE B.N.S.S 2023 (PREVIOUSLY UNDER SECTION 389 R/W SECTION 482 OF THE CRPC) SEEKING SUSPENSION OF SENTENCE AND RELEASE OF THE APPELLANT ON BAIL DURING THE PENDENCY OF THE INSTANT REVISION)

1. By way of the present application under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") read with Section 528 BNSS, applicant/ petitioner seeks suspension of sentence during the pendency of the revision petition.

2. The applicant/petitioner vide judgment dated 19.04.2023 passed by the learned CMM, North –West District, Rohini Courts, Delhi, stands convicted for offences punishable under Section 394/34 of the Indian Penal



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Code, 1860 (hereinafter 'IPC') and Section 411 IPC registered at PS. Subhash Place.

3. By order of sentence dated 17.05.2023, the applicant was sentenced to undergo rigorous imprisonment for a period of 5 years, and to pay a fine of Rs. 10,000/-, in respect of the offence under Section 394/34 of the IPC, and to undergo simple imprisonment for a period of 1 year in respect of the offence under Section 411 of the IPC. The substantive sentences run concurrently.

4. The present application must be considered in the context of concurrent findings of guilt.

5. The prosecution case rests upon the complainant's testimony and the identification of the petitioner and the recovery of the complainant's Aadhar Card.

6. Learned counsel for the applicant/petitioner strongly contends that the prosecution case suffers from inconsistencies and infirmities. It is pointed out that the same rests only upon the complainant's testimony without there being any eye-witness. It is further pointed out that the Test –Identification – Parade (TIP) was conducted after more than 20 days of the applicant's arrest. It is emphasised that no MLC was conducted upon the complainant. Further, only the Aadhar Card of the complainant was recovered from the applicant/petitioner and there was no recovery of any stolen property.

7. These are aspects which will necessarily be gone into at the time of the hearing of the revision petition.

8. Suffice it to say, the applicant/petitioner has an arguable case and the aforesaid pleas shall be duly taken into consideration in the appellate proceedings.



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9. What is further relevant is that the sentence is for a fixed period of five years. The nominal roll dated 08.12.2025 records actual custody of 1 year 5 months and 14 days.

10. Learned counsel for the applicant/petitioner submits that as on date, the applicant/petitioner has been in custody for over 2 years.

11. Having regard to the present stage of proceedings, there is an uncertainty as to the time-frame within which the revision petition will be decided.

12. Given the period already served by the applicant, and considering the further period likely to elapse before adjudication of the revision petition, continued incarceration would constitute an appreciable part of the fixed period of sentence.

13. The principles governing the suspension of sentence in a case of fixed term conviction are well settled. In **Bhagwan Rama Shinde Gosai v. State of Gujarat**, (1999) 4 SCC 421, the Supreme Court has held that suspension of fixed term sentence can be considered by the Appellate Court liberally unless there are exceptional circumstances. The relevant extracts from the dicta laid down in **Bhagwan Rama** (supra) are as under:

“3. 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 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 a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal



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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.”

14. Taking note of the aforesaid circumstances cumulatively, this Court directs suspension of the remaining sentence, subject to stringent conditions.

15. Accordingly, the applicant/petitioner shall be released on bail, upon furnishing a personal bond to the sum of of Rs.20,000/-, with surety of like amount, to the satisfaction of the Trial Court, subject to the following conditions:-

- i. The applicant shall not leave the NCT of Delhi without prior permission of this Court;
- ii. The applicant shall furnish the address, where he will be residing, to the concerned Jail Superintendent and the Investigating Officer (I.O.);
- iii. The applicant 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 applicant 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 applicant shall not directly or indirectly contact the complainant/victim, the family members of the victim;
- vi. The appellant shall not indulge in any criminal activity during the period of bail;



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- 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.
16. 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.
17. Let a copy of this order be sent to the concerned Jail Superintendent for necessary information and compliance.
18. The application is disposed of in the above terms.

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19. List on 15.02.2027.

SACHIN DATTA, J

SEPTEMBER 30, 2026

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