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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 118/2025**

PREM KUMAR @ ASHISHPetitioner
Through: Mr. Bhanu Malhotra &
Mr. Gopeshwar Singh
Chandel, Advs.

versus

THE STATE GOVT. OF NCT
OF DELHIRespondent
Through: Ms. Kiran Bairwa, APP
for the State
SI Jagat Singh, PS-
Connaught Place

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
02.04.2025

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CRL.M.A. 9961/2025 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.A. 9960/2025 (for condonation of delay)

3. For the reasons mentioned in the application, the same is allowed.
4. The delay of 114 days in filing the petition is condoned.
5. The application stands disposed of.

CRL.REV.P. 118/2025 & CRL.M.(BAIL) 720/2025 (for suspension of sentence)

6. The present petition – CRL.REV.P. 118/2025, is filed seeking setting aside of the order dated 06.09.2024 (hereafter ‘the impugned order’) passed by the learned Principal District and Sessions Judge, Patiala House Courts, Delhi in Criminal

CRL.REV.P. 118/2025

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Appeal No. 295/2023.

7. The present application – CRL.M.(BAIL) 720/2025 is filed seeking suspension on sentence and grant of bail during the pendency of the petition. The petitioner was convicted by judgment dated 19.07.2023 for offence punishable under Section 195-A of the Indian Penal Code, 1860 ('IPC') and was sentenced by order on sentence dated 13.09.2023, to undergo simple imprisonment for two years along with fine of ₹5,000/-, and for offence under Section 506 - II of the IPC, the petitioner was sentenced to undergo simple imprisonment for two years along with fine of ₹5,000/-. The sentences were to run concurrently.

8. The appeal filed by the petitioner herein against the judgment on conviction dated 19.07.2023 and order on sentence dated 13.09.2023 was dismissed for non-prosecution because of non-representation for the appellant, by the impugned order.

9. It is settled law that a criminal case should not be decided against the accused in the absence of a counsel. The Hon'ble Apex Court in ***Mohd. Sukur Ali v. State of Assam : (2011) 4 SCC 729***, held as under :

"5. We are of the opinion that even assuming that the counsel for the accused does not appear because of the counsel's negligence or deliberately, even then the court should not decide a criminal case against the accused in the absence of his counsel since an accused in a criminal case should not suffer for the fault of his counsel and in such a situation the court should appoint another counsel as amicus curiae to defend the accused. This is because liberty of a person is the most important feature of our Constitution. Article 21 which guarantees protection of life and personal liberty is the most important fundamental right of the fundamental rights guaranteed by the Constitution. Article 21 can be said to be the "heart and soul" of the fundamental rights."

10. In the interest of justice, this Court is of the opinion that



one last opportunity be granted to the petitioner to address arguments subject to payment of cost of ₹20,000/- to Delhi Police Welfare Society.

11. In view of the above, the impugned order is set aside and the matter is remanded back to the learned appellate court for hearing of the criminal appeal afresh on its own merits and in accordance with law.

12. List for further proceedings before the learned appellate Court on 04.04.2025.

13. A copy of this order be sent to the concerned Principal District and Sessions Judge for necessary compliance.

AMIT MAHAJAN, J

APRIL 2, 2025
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