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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 1149/2025**

POOJA & ANR.

.....Appellants

Through: Mr. Rajiv Ranjan Mishra, Mr. Saurav
and Ms. Suruchi Yadav, Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for State

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

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14.08.2025

CRL.M.A. 23962/2025

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

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3. Application allowed and stands disposed of.
4. Trial Court Record be requisitioned in digital form.

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5. Admit.
6. List in due course.

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7. The present application under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (hereinafter "BNSS") [earlier Section 389 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC")] has been filed on behalf of the appellants seeking suspension of sentence in the order of



conviction passed by learned Additional Sessions Judge (Children's Court)-06, Shahdara, Karkardooma Courts on 17.05.2025 under Section 317/120B/34 of Indian Penal Code, 1860 (hereinafter "IPC") in FIR No. 287/2012.

8. Heard.

9. Issue notice. Notice accepted by Ms. Meenakshi Dahiya, learned APP for State.

10. The learned ASJ *vide* order/judgment dated 17.05.2025 convicted the appellants for offence punishable u/s 317 IPC and Section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter "JJ Act"). The appellants were ordered to undergo 6 months of simple imprisonment and fine of Rs. 1000/- for the offence under Section 317 of IPC and Section 23 of the JJ Act *vide* order dated 26.07.2025. All the sentences are to run concurrently and period already undergone to be set off against sentence awarded by virtue of Section 468 BNSS (earlier Section 428 CrPC).

11. Learned counsel for the appellants submits that appellant no. 1 is presently the sole caretaker of her minor daughter (concerned infant in the incident), who is a special child and continues to reside with her. The order of sentence passed by the learned ASJ on 26.07.2025 was merely six months, and that too of simple imprisonment, and in passing the said order, the learned Court did consider as well the peculiar circumstances of the appellants. It is further urged that the child is only thirteen years of age and requires constant medical attention, including regular physiotherapy, and therefore the presence of her mother is indispensable. In addition, the appellants are also responsible for the upkeep of their old aged and ailing parents, who are wholly dependent upon them, thereby rendering the



incarceration of the appellants unduly harsh and inequitable in the peculiar facts and circumstances of the case.

12. It is also submitted that there is nothing on record to directly connect the appellants with the alleged offence. The prosecution has failed to produce any cogent evidence establishing their involvement, and the material placed on record suffers from material contradictions and deficiencies. *Prima facie*, therefore, the appellants are likely to be acquitted of the charges in the appeal, and the continued execution of the sentence would cause irreparable harm not only to them but also to their dependent family members.

13. Heard learned counsel for the appellants and perused the contents made in the application.

14. For the reasons stated in the application and in such circumstances referred above, this Court is inclined to accept the plea of the appellants for suspension of the order and sentence dated 26.07.2025 passed by the learned ASJ.

15. This Court makes it clear and goes without saying that any observations touching merits of the case, are purely for the purpose of deciding the question of grant of bail pending for the final disposal of the instant criminal appeal and shall not construed as an expression of final observation in the main matter.

16. As the result, the application succeeds and is, hereby, allowed.

17. Accordingly, the sentence of the appellants is suspended during pendency of the appeal and they are ordered to be released on bail on their furnishing personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand only) each with solvent surety of like amount to the satisfaction of the Trial



Court concerned subject to the conditions as follows:-

- (a) they shall furnish their permanent addresses to the Investigating Officer within two weeks of their release and in case they change their address, they will inform the Investigating Officer concerned.
- (b) they shall under no circumstances leave India without prior permission of the Court;
- (c) they shall appear before the Court as and when required;
- (d) they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.
- (e) they shall provide their mobile number and keep it operational at all times; and
- (f) they shall commit no offence whatsoever during the period they are on bail.

18. In the meantime, the judgment dated 17.05.2025 and order of sentence dated 26.07.2025, passed by the learned Trial Court shall remain suspended till the final disposal of the instant criminal appeal.

19. Copy of this order be sent to the concerned Court for compliance.

20. The application stands disposed of.

AJAY DIGPAUL, J

AUGUST 14, 2025

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