GAHC010203092026

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Crl.)/973/2026

MD SHAKIR
S/O HAFIZ MD. HARUNUR RASHID, R/O VILL.- NATHUPUR, BAKARSHAL,
P.S. KARIMGANJ, DISTRICT SRIBHUMI, ASSAM.

VERSUS

CENTRAL BUREAU OF INVESTIGATION
REPRESENTED BY THE SPECIAL PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. A AHMED, MR A AHMED,U U KHAN,MISS. P M AHMED,MR. M A CHOUDHURY

Advocate for the Respondent : SC, CBI,

Linked Case : Crl.A./330/2026

MD SHAKIR
S/O HAFIZ MD. HARUNUR RASHID
R/O VILL.- NATHUPUR
BAKARSHAL
P.S. KARIMGANJ
DISTRICT SRIBHUMI
ASSAM.

VERSUS

CENTRAL BUREAU OF INVESTIGATION
REPRESENTED BY THE SPECIAL PUBLIC PROSECUTOR
ASSAM.

Advocate for : MR. A AHMED
Advocate for : SC
CBI appearing for CENTRAL BUREAU OF INVESTIGATION

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 05.10.2026

Heard Mr. A. Ahmed, learned Counsel for the applicant and Ms. M. Kumari, learned Standing Counsel for CBI.

2. By this application filed under Section 430 of the BNSS, 2023 the applicant has prayed for suspension of sentence imposed upon him by judgment dated 31.08.2026 and sentencing order dated 07.09.2026 passed by the Court of Special Judge, CBI, Assam, Additional Court No.II, Chandmari, Guwahati in Special CBI Case No. 33/2025. By the said judgment and order, the applicant was convicted under Section 420 of the IPC read with Section 21(1)/21(2) and 21(3) of Banning of Unregulated Deposit Scheme Act and was sentenced to undergo RI for a period of two years with fine and default stipulation under Section 21(1) of BUDS Act and also to undergo RI for a period of four years with fine and default stipulation under Section 21(2) of BUDS Act as well as undergo RI for a period of four years with fine and default stipulation under Section 21(3) of BUDS Act. The applicant was also sentenced to undergo RI for two years with fine and default stipulation under Section 420 of the IPC.

3. The sentences were directed to run concurrently.

4. The learned Court had also directed the competent authority to attach deposits or any other property in the name of the applicant or other person on behalf of him as per provisions of BUDS Act and compensate the victims after proper identification from the sale proceed of the property of the applicant including the money held by him in the bank. The petitioner has also prayed for allowing him to go on bail during the pendency of the connected criminal appeal.

5. The learned Counsel for the applicant submits that the present case does not involve deposit of unregulated funds and that the same is regulated under the SEBI Act, since the money deposited was invested in the share market.

6. On the other hand, Ms. M. Kumari, learned Standing Counsel for CBI submits that the facts are different and that in the instant case, the funds deposited by public is in a unregulated deposits scheme. She also stated that the applicant's company was not registered under Security and Exchange Board of India nor it was authorized by the SEBI. However, it is held by the Supreme Court in so many decision one being ***Bhagwan Rama Shinde v. State of Gujarat,*** **Reported in** ***(1999) 4 SCC 421,*** wherein it was held that unless there are some exceptional reasons, the sentence during the pendency of the appeal should be suspended when the sentence is for a fixed period of time.

7. It is also held by the Supreme Court that when there is a fixed term sentence and especially when the appeal is not likely to be heard before completing entire period of sentence, normally the sentence should be suspended and the bail should be granted. In this case, it is seen that the applicant was imposed with a sentence of four year incarceration and the appeal

has been filed only this year i.e. in 2026.

8. As such, this Court deems it fit to suspend the sentence imposed upon the applicant during the pendency of the appeal and the applicant be released on bail on furnishing of bail bond of Rs. 20,000/- with one local surety of the like amount to the satisfaction of Special Judge, CBI, Assam, Additional Court No.II, Chandmari, Guwahati.

9. Further it is seen that the Trial Court had given direction to the competent authority to attach the property of the applicant and since the sentence is suspended during the pendency of the appeal, the further direction is given to the applicant not to alienate, dispose of or transfer the property of the applicant without the leave of the Court.

10. The Registry is directed to list the criminal appeal for admission.

11. I.A. is disposed of.

JUDGE

Comparing Assistant