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

Case No. : I.A.(Crl.)/1076/2026

RAKESH KUMAR PAUL
SON OF LATE RANJIT KUMAR PAUL, PERMANENT RESIDENT OF SANGRILLA, HOUSE NO. 47, SHAKTIGARH PATH, BYE LANE NO. 3, P.O. AND P.S. BHANGAGARH, GUWAHATI 781005, ASSAM,
PRESENTLY LODGED IN THE CENTRAL JAIL, GUWAHATI.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocates for the petitioner : Mr. D. Das, Sr. Advocate
Mr. S. Das
Advocates for the respondents : Mr. Mr. P. Kataky, Sr. Adv.
Mr. PP Dutta

-BEFORE-
HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE RAJESH MAZUMDAR

Date on which judgment is reserved : 13.11.2026
Date of pronouncement of judgment : **23.11.2026**
Whether the pronouncement is of the : N/A

operative part of the judgment ?
Whether the full judgment has been
Pronounced : Yes

JUDGMENT & ORDER (CAV)

(Rajesh Mazumdar, J)

Heard Mr. D. Das, learned Sr. Counsel, assisted by Mr. S. Das, learned counsel for the appellant. Also heard Mr. P. Katakey, learned Sr. Advocate and Spl. P.P. Assam, assisted by P.P. Dutta, learned counsel representing the State/respondent No. 1.

2. This is an application under Section 389(1) read with Section 436-A of the Code of Criminal Procedure, 1973 [corresponding to Section 430 (1) read with Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023] praying for suspension of the sentence imposed by the impugned, order and sentence dated 29.07.2024, passed by the Learned Special Judge, Assam, Guwahati in Special Case No. 15/2021 arising out of Bhangagarh P.S. Case No. 159/2017 and for release of the applicant on bail during the pendency of Criminal Appeal No. 420 of 2024.

3. The petitioner has preferred Criminal Appeal no 420/2024 against the judgment and order dated 22.07.2024 passed by the learned Special Judge, Assam in connection with Special Case No. 05/2021 arising out of Bhangagarh P.S. Case No. 159/2017 registered under Section 120B/420/468 IPC read with

Section 7/13(1)(a)(d)(III)/13(2) of the Prevention of Corruption Act, 1988 convicting the appellant and order dated 29.07.2024, sentencing the appellant to undergo rigorous imprisonment for 14 years in total.

4. It is required to be noted that on an earlier occasion, I.A.(Crl.) No. 319/2026 had been preferred by the petitioner praying for suspension of the sentence imposed during the period of appeal, which was rejected on 18.06.2026, with the Court directing the Registry to furnish PDF versions of the Paper Book of the 19 other connected Criminal Appeals which had arisen out of the same Special Case No. 5/2021 and with a further observation that Court intended to dispose of all the appeals arising out of the impugned Judgment & Order dated 22.07.2024 passed by the learned Special Judge, Assam, Guwahati in Special Case No. 5/2021. Therefore, this Court was not inclined to allow the prayer for bail and suspension of the sentence at that stage. The appeals were directed to be listed for final hearing on 18.08.2026. A perusal of the Order dated 18.08.2026 reflects that the Paper Books were not yet prepared and the Registry was directed to list all the connected appeals on 22.01.2027 along with Criminal Appeal No. 263/2026.

5. The learned Senior Counsel, Mr. D. Das, has submitted that the Paper Books are yet to be prepared and the final hearing of the appeal would obviously take considerable time. He has submitted that, in view of the voluminous nature of the evidence and the number of appeals involved, the present bail petition

would be maintainable for consideration of this Court, more so since the petitioner has additionally introduced the ground of the requirement of the wife of the petitioner to medical attention and care by the petitioner, as she has been reported to have lost the function of both her kidneys and the doctors have advised a kidney transplant process, which cannot be undergone without the presence and assistance of the petitioner.

6. The learned Senior Counsel has submitted that a consensus had been arrived at that an attempt would be made to dispose of all connected appeals, which were slated to be listed on 18.08.2026; however, due to the absence of paper books in all the appeals, the matter had to be deferred. He has submitted that delay in disposal of the appeals is now unavoidable and, therefore, the renewed prayer for suspension of the sentence deserves consideration in the given changed circumstances where the wife of the petitioner now requires his presence and physical aid to survive her otherwise terminal illness.

7. The learned senior counsel has submitted that the submissions made in the earlier application praying for suspension of the sentence, with reference to the provisions of Section 31 of the Cr.P.C., and the provisions of Section 436 of the IPC were not answered while rejecting the prayer for suspension of the sentence and therefore, he has again referred to the said provisions of law to impress upon this Court that since the learned Trial Court had imposed a total imprisonment of 14 years on the applicant, as per the provisions of Section 436

A of the IPC, which have also been applied to cases relating to imprisonment/sentence after conviction during the pendency of appeals, the petitioner would be entitled to claim a suspension of the sentence since he has already spent more than 8 years in custody, which is more than half of the sentence imposed upon him. He has also referred to the judgment of the Hon'ble Supreme Court in Satinder Kumar Antil vs CBI and another, reported in (2022) 10 SCC 51, wherein it had been held that delay in disposal of the appeal would be a relevant factor while considering the grant of benefit to a convict under the provisions of Section 436A of the Cr.P.C. He has renewed his reliance on the case of Dinesh Kumar Sinha vs State of Jharkhand reported in (2009) 6 SCC 628 and the judgment of this Court in IA(Crl) 600/2022 to submit that the prayer for suspension of the sentence during the pendency of the appeal deserves consideration.

8. The learned Special PP has vehemently opposed the prayer for suspension by submitting that the paper book in the appeal preferred by the applicant herein is already prepared and supplied and further, the matter is now fixed for hearing in January 2027. He has submitted that it cannot be presumed that there would be delay in disposal in the connected appeal. He has further submitted that the nature of the offences, which have been found to be proved against the applicant by the learned Trial Court, is serious and relates to corruption in the selection conducted by the State Public Service Commission for appointment in

the State services. He has submitted that the prayer for suspension of sentence, having been rejected on an earlier occasion, does not require any further consideration.

9. We have heard the learned counsel for the parties, and we have perused the record placed before us. The learned Trial Court, in its wisdom, had sentenced the applicant herein to undergo imprisonment for (i) seven years under Section 7 of the PC Act, 1988 read with Section 120-B IPC, (ii) 10 (ten) years under Section 13(2) of the PC Act, 1988 read with Section 120(B) IPC, (iii) Seven years under Section 420 IPC read with Section 120-B IPC, and (iv) seven years under Section 468 IPC read with Section 120-B, IPC. The sentences were directed to run consecutively, in the manner provided for in the relevant order. The Learned Trial Court further directed that the applicant herein, as a convict, would remain in jail for fourteen years as per the provisions of Section 31(2) (a) of the Cr.P.C.

10. Though much had been argued on the correctness or otherwise of the sentences imposed and the manner in which they were required to be carried out, as well as the longest term that could have been imposed on the convict, we are of the view that such issues are required to be addressed while considering the connected appeal. For the purposes of the present appeal, in our considered opinion, the relevant facts are that the learned Trial Court had

directed that the applicant would serve a total term of 14 years and that the applicant has served more than 8 years cumulatively, including the period spent in custody during the trial and, having regard to the same, the prayer of the applicant for suspension of the sentence has to be answered. We are also conscious of the assertion of the applicant that his wife is facing kidney failure, due to which she would require the care and presence of the applicant for further treatment.

11. The Hon'ble Apex Court in the case of **Bhagwan Rama Shinde Gosai and others Vs. State of Gujarat**, reported in **(1999) 4 SCC 421**, had held 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 would be an exercise of 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 bestow special concern in the matter of suspending of sentence, so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted."*

12. In **Ramnik Singh Vs. Intelligence Officer, Directorate of Revenue Intelligence**, [CRIMINAL APPEAL NO. 165 OF 2013 (Arising out of SLP(Crl) No. 9180 of 2012)], the Apex Court had released the appellant therein, who was convicted and sentenced under the NDPS Act, after considering the fact that the convict had already undergone half of the sentence imposed upon him, and the possibility of appeal being taken up in the near future was remote. The Apex Court was of the opinion that the above facts entitled the convict for suspension of sentence during pendency of appeal.

13. In **Saudan Singh vs State of UP**, reported in **2021 SCC Online SC 3259**, which a co-ordinate bench of this Court has also relied upon, it was held as follows:

> *"We may note that there may be even convicts in custody in cases other than life sentence cases and in those cases again the broad parameter of 50 per cent of the actual sentence undergone can be the basis for grant of bail."*

14. The Hon'ble Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another**, reported in **(2022) 10 SCC 51**, had considered the impact of the provisions of Section 436A Cr.P.C. coupled with the delay in taking up the main appeal, and held as follows:

> *"43. A suspension of sentence is an act of keeping the sentence in abeyance, pending the final adjudication. Though delay in taking up the main appeal would certainly be a factor and the*

benefit available under Section 436A would also be considered, the Courts will have to see the relevant factors including the conviction rendered by the trial court. When it is so apparent that the appeals are not likely to be taken up and disposed of, then the delay would certainly be a factor in favour of the appellant.

44. Thus, we hold that the delay in taking up the main appeal or revision coupled with the benefit conferred under Section 436A of the Code among other factors ought to be considered for a favourable release on bail.

46. Section 436A of the Code has been inserted by Act 25 of 2005. This provision has got a laudable object behind it, particularly from the point of view of granting bail. This provision draws the maximum period for which an undertrial prisoner can be detained. This period has to be reckoned with the custody of the accused during the investigation, inquiry and trial. We have already explained that the word 'trial' will have to be given an expanded meaning particularly when an appeal or admission is pending. Thus, in a case where an appeal is pending for a longer time, to bring it under Section 436A, the period of incarceration in all forms will have to be reckoned, and so also for the revision."

15. The earlier petition filed by the applicant had been rejected on 18.6.2026, since this Court was of the opinion that the connected appeals could be taken up for disposal at an early date. The records of proceedings reveal that the paper books in the connected appeal are yet to be prepared. Thus, an early disposal of the connected appeals does not appear to be viable. There is no qualm at the Bar that the applicant has suffered incarceration for a period of over 8 years, even as the Learned Trial Court had imposed a sentence of 14 years' rigorous imprisonment upon him. It is another issue as to whether the incarceration suffered by the applicant during the period of trial can also be said to be in execution of the sentence of "rigorous imprisonment" imposed upon

him, and the same would be answered in an appropriate proceeding. The report produced by the learned Special PP does not contest or negate the ailment being suffered by the wife of the applicant, and therefore, his presence and care with regard to her treatment from a life-threatening condition cannot be overlooked.

16. In the facts and circumstances of the present case, keeping in view the length of detention already undergone, the possibility of delay in hearing the appeals due to practical difficulties and also keeping in view the life-threatening condition being suffered by the wife of the applicant, we deem it proper to suspend the sentences imposed on the applicant and to allow the applicant the privilege of bail for a limited period till 28th of February 2027 or disposal of the connected appeal, whichever is earlier. Accordingly, it is directed that the sentences imposed upon the applicant herein, namely Sri Rakesh Paul, by the order dated 29.7.2024 passed by the learned Special Judge, Guwahati, Assam, in Special Case No. 05/2021, shall remain suspended till 28th of February 2027 or disposal of the connected appeal, whichever is earlier. The applicant be released on bail for the period aforesaid, in connection with the said case, in the event he provides a bond of Rs. 1,00,000/- with three sureties of the like amount, at least one of whom shall have immovable property within the jurisdiction of the learned Trial Court, to the satisfaction of the learned Trial Court. The privilege of bail granted shall be further subject to such other

conditions as the learned Trial Court may deem fit to impose, over and above the following conditions:

1. That the applicant shall not leave the territorial jurisdiction of the learned Trial Court without prior permission and without furnishing before the learned Trial Court his intended place of residence and contact number.
2. That the applicant shall deposit his passport, if any, with the learned Trial Court, which shall be retained till disposal of the connected appeals.

17. In the event the connected criminal appeal is not disposed of till 28th February 2027, the petitioner would be at liberty to pray for extension of the period of bail, in the event circumstances so require.

18. IA(Crl.)1076 is accordingly disposed of.

JUDGE **JUDGE**

Comparing Assistant