

2026 LiveLaw (SC) 176

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
DIPANKAR DATTA; J., SATISH CHANDRA SHARMA; J.
SLP (Crl.) Diary No. 163 of 2026; February 16, 2026
MUNA BISOI *versus* STATE OF ODISHA**

Criminal Law — Suspension of Sentence — Grant of Bail pending Appeal — Long Incarceration — Life Imprisonment — The Supreme Court set aside an order of the High Court of Orissa which had declined the suspension of sentence for an appellant convicted under Sections 302/34 IPC and Section 27 of the Arms Act - The appellant had suffered incarceration for over 11 years while his appeal, filed in 2016, remained pending before the High Court.

Practice of the Court and Interests of Justice — Supreme Court observed that while the general practice is not to release a person sentenced to life imprisonment on bail, such practice cannot prevail if it operates to cause injustice - The underlying postulate of denying bail is that the appeal should be disposed of within a "measurable distance of time" - Keeping a person in jail for 5-6 years for an offence that may ultimately be found not to have been committed is a "travesty of justice" - Section 374(2) of the Code of Criminal Procedure, 1973 — Supreme Court noted that the right of appeal is a statutory right - Serious failure of justice ensues if an appellant remains incarcerated for over a decade only to have their appeal eventually succeed - Unless there are cogent grounds to the contrary, and where the delay is not attributable to the accused, the Court should ordinarily release the accused on bail if the appeal cannot be heard within a reasonable period. [Relied on *Kashmira Singh vs. State of Punjab (1977) 4 SCC 291; Paras 5-13*]

[Arising out of impugned final judgment and order dated 22-10-2025 in IA No. 1816/2025 in Crl.A. No. 552/2016 passed by the High Court of Orissa at Cuttack]

For Petitioner(s): Mr. Haraprasad Sahu, Adv. Mr. Ajay Kumar Jain, Adv. Mr. Pranaya Kumar Mohapatra, AOR

For Respondent(s): Ms. Bharti Tyagi, AOR Ms. Vishakha Raghuram, Adv. Mr. Tarun Bhati, Adv. Mr. Vikash Kumar, Adv.

ORDER

1. Leave granted.
2. The High Court of Orissa at Cuttack by the impugned judgment and order dated 22nd October, 2025¹ has declined the appellant's prayer for suspension of sentence; however, he was directed to be released on interim bail for three months.
3. Appellant was convicted by the Sessions Court for an offence punishable under Sections 302/34 of the Indian Penal Code, 1860 as well as under Section 27 of the Arms Act, 1959 and sentenced to life imprisonment.
4. Such conviction and suspension having been carried in appeal² before the High Court by the appellant, the same is yet to be disposed of.

¹ impugned order

² Crl. Appeal No. 552 of 2016

5. Interestingly, by the time the appellant's application for suspension of sentence was considered by the High Court and disallowed by the impugned order, he had suffered incarceration in excess of 11 years.

6. Considering such prolonged incarceration and realizing the period of time during which the appeal has remained pending, the High Court took a sympathetic view and granted the appellant partial relief, as noted above. The period of interim bail of three months was to terminate on 22nd January, 2026*, whereafter the appellant had to surrender.

7. It was immediately prior to expiry of the aforesaid period that the appellant challenged the order dated 22nd October, 2025 in the special leave petition, out of which this appeal arises.

8. A coordinate Bench of this Court by its order dated 12th January, 2026 granted interim relief to the appellant and permitted the order of release on interim bail to continue till the next date of hearing.

9. In light of the aforesaid factual narrative, we have heard learned counsel appearing for the respective parties and perused the records.

10. It does not surprise us any longer that despite the appeal having been filed in 2016, the High Court could not find time to hear it resulting in the appellant, in the meanwhile, having suffered over a decade's incarceration.

11. At the same time, we have no doubt in our mind that the High Court was disabled for genuine reasons to decide the appeal finally. However, sight cannot be lost that the right of appeal is a statutory right in terms of Section 374(2), Code of Criminal Procedure, 1973. Serious failure of justice could ensue if the appellant, while continuing to remain incarcerated, ultimately, finds that his appeal has succeeded.

12. A coordinate bench of this Court, nearly half a century back in ***Kashmira Singh vs. State of Punjab***³, made the following poignant observations:

2. The appellant contends in this application that pending the hearing of the appeal he should be released on bail. Now, the practice in this Court as also in many of the High Courts has been not to release on bail a person who has been sentenced to life imprisonment for an offence under Section 302 of the Penal Code, 1860. The question is whether this practice should be departed from and if so, in what circumstances. It is obvious that no practice howsoever sanctified by usage and hallowed by time can be allowed to prevail if it operates to cause injustice. Every practice of the Court must find its ultimate justification in the interest of justice. The practice not to release on bail a person who has been sentenced to life imprisonment was evolved in the High Courts and in this Court on the basis that once a person has been found guilty and sentenced to life imprisonment, he should not be let loose, so long as his conviction and sentence are not set aside, but the underlying postulate of this practice was that the appeal of such person would be disposed of within a measurable distance of time, so that if he is ultimately found to be innocent, he would not have to remain in jail for an unduly long period. The rationale of this practice can have no application where the Court is not in a position to dispose of the appeal for five or six years. It would indeed be a travesty of justice to keep a person in jail for a period of five or six years for an offence which is ultimately found not to have been committed by him. Can the Court ever compensate him for his incarceration which is found to be unjustified? Would it be just at all for the Court to tell a person: "We have admitted your appeal because we think you have a prima facie case, but unfortunately we have no time to hear your appeal for quite a few years and, therefore, until we hear your appeal, you must remain in jail, even though you may be innocent?"

³ (1977) 4 SCC 291

What confidence would such administration of justice inspire in the mind of the public? It may quite conceivably happen, and it has in fact happened in a few cases in this Court, that a person may serve out his full term of imprisonment before his appeal is taken up for hearing. Would a Judge not be overwhelmed with a feeling of contrition while acquitting such a person after hearing the appeal? Would it not be an affront to his sense of justice? Of what avail would the acquittal be to such a person who has already served out his term of imprisonment or at any rate a major part of it? It is, therefore, absolutely essential that the practice which this Court has been following in the past must be reconsidered and so long as this Court is not in a position to hear the appeal of an accused within a reasonable period of time, the Court should ordinarily, unless there are cogent grounds for acting otherwise, release the accused on bail in cases where special leave has been granted to the accused to appeal against his conviction and sentence.

13. Bearing in mind that nothing is on record to indicate that delay in disposal of the appeal is attributable to the appellant and giving due consideration to what this Court in *Kashmira Singh* (supra) observed with regard to the necessity of reconsidering the practice of denying bail to murder convicts languishing in custody for five-six years, we are inclined to allow the appeal by suspending the sentence of life imprisonment imposed on the appellant by the Sessions Court and to make the interim order absolute. Ordered accordingly.

14. As a sequel thereto, the impugned order stands set aside and the appeal is, accordingly, allowed on the aforesaid terms.

15. Appellant shall continue to remain on interim bail till such time further order to the contrary is passed by the High Court.

16. We request the High Court to decide the appeal as early as possible, preferably within a period of six months from date of receipt of a copy of this order.

17. In the event, the appellant does not show any interest in prosecuting the appeal, the High Court may proceed to engage an Amicus Curiae and decide the appeal on its own merits.

18. Pending application(s), if any, stand disposed of.

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