



2026:UHC:674

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><u>CRLR No. 248 of 2026</u> <u>With</u> <u>Bail Appl. No. 1 of 2026</u> <u>Hon'ble Rakesh Thapliyal, J.</u></p> <p>1. Mr. Vinod Kumar Jemini, learned counsel with Mr. Ashish Kumar Jemini, learned counsel for the revisionist.</p> <p>2. Ms. Sweta Badola Dobhal, learned Brief Holder for the State.</p> <p>3. The instant criminal revision has been preferred by the revisionist Sandeep, S/o Tej Pal against the order passed by learned 1st Addl. Sessions Judge, Roorkee District Haridwar in Criminal Appeal No. 26 of 2026, titled as Sandeep vs. State of Uttarakhand, whereby the application moved on behalf of the revisionist for seeking bail and suspension of sentence has been rejected.</p> <p>4. The revisionist herein faced the trial for the offences punishable under Sections 363 and 506 IPC, arising out of Case Crime No. 603 of 2018 and the trial court by judgment and order dated 28.02.2026 convict the revisionist for the offence punishable under Section 363 IPC by acquitting him under Section 506 IPC. He has been sentenced to seven years simple imprisonment with the fine of Rs. 5000/- and in default of payment of fine he has to further undergo two months simple imprisonment. Being aggrieved with the conviction and sentence of the judgment and order dated 28.02.2026, passed by Addl. Chief Judicial Magistrate, Roorkee, Haridwar in Criminal Case No. 2747 of 2019, the revisionist preferred an appeal before the 1st Addl. Sessions Judge, Roorkee with an application for seeking bail and suspension of sentence and the 1st Addl. Sessions Judge admit the appeal on 06.03.2026 and on the same day by separate order the application for seeking</p>



bail and suspension of sentence has been rejected.

5. I perused the order passed by 1st Addl. Sessions Judge and it is very surprising that instead of going to the merits of the case, whether conviction is bad or not, the learned Judge interpret the scope of Section 430(1) of BNSS 2023 and draw an observation that it is not mandatory to the Appellate Court to suspend the enforcement of order of conviction, since, section 430 of BNSS 2023 is directory not mandatory. It appears that the 1st Addl. Session Judge, Roorkee without applying its judicial mind passed the order impugned, though appeal preferred by the revisionist (convict) is an statutory appeal which was admitted, and instead of going with the merit of the case whether conviction is bad or not, the learned Judge, interpreted the scope of Section 430(1)of BNSS 2023.

6. In my opinion the 1st Addl. Sessions Judge, Roorkee is failed to understand the scope of Section 430 (1) of BNSS. In one side he admitted the appeal and other side he is interpreting Section 430(1) of BNSS by saying that it is directory and not mandatory. If the convict preferred an appeal against his conviction then the Appellate Court should examine whether conviction is bad or not which is completely missing in the order impugned.

7. Heard on bail application no. 1 of 2026.

8. It is argued by the learned counsel for the revisionist that though he faced the trial for the offence punishable under Sections 363, 506 IPC, however, for the offence punishable under Section 506 IPC he has been acquitted and is convicted only for the offence punishable under Section 363 IPC. Learned counsel further submits that the revisionist was on bail during trial, and never misused the same and after conviction he surrendered and then moved the bail application. He also



submits that conviction is bad because the age of the victim was not determined as per the procedure laid down under the J.J. Act and furthermore, the victim herself has not supported the case of the prosecution.

9. Ms. Sweta Dobhal, learned Brief Holder have not disputed that the revisionist was on bail during trial and he never misused the same and have also not disputed that the appeal against conviction was already admitted by the learned 1st Addl. Sessions Judge, Roorkee on 06.03.2026.

10. After hearing the arguments of the learned counsel for the parties and taking into consideration that the revisionist was on bail during trial and never misused the same and maximum sentence, as awarded by the trial court is seven years simple imprisonment and the statutory criminal appeal preferred against conviction has already admitted, this Court is of the view that the revisionist deserves for bail during the pendency of the appeal pending before the 1st Addl. Sessions Judge, Roorkee.

11. In such view of the matter the instant criminal revision is allowed. The order impugned dated 06.03.2026 passed by the 1st Addl. Sessions Judge, Roorkee in Criminal Appeal No. 26 of 2026 is quashed and the conviction and sentence awarded by the trial court is suspended during the pendency of Criminal Appeal No. 26 of 2026 pending before the 1st Addl. Session Judge, Roorkee, District Haridwar.

(Rakesh Thapliyal, J.)
23.04.2026

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