CNR No: PHHC011453732026
2026:PHHC:203706

CRM-41525-2026 in CRA-S-2718-2026

SHYAM SINGH CHAUHAN
VS.
CENTRAL BUREAU OF INVESTIGATION

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Ms. Akshita Kansal, Advocate
for the applicant-appellant.

Mr. Akashdeep Singh, Special Public Prosecutor
for the respondent-CBI.

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1. The present application has been filed on behalf of the applicant-appellant under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking suspension of the sentence awarded to him by the learned Special Judge, CBI Court, Chandigarh and his release on bail during the pendency of the appeal.

2. The appellant, who was working as Assistant in the office of the Deputy Chief Controller of Explosives, Manimajra, Chandigarh, was prosecuted in FIR No. RCCHG2017A0014 dated 11.07.2017 registered by the Central Bureau of Investigation, Anti Corruption Branch, Chandigarh, under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (*for short 'the PC Act'*). As per the prosecution, the complainant Davender Pal, a blaster by profession, had applied for amendment of his licence and the appellant demanded a bribe of Rs. 8,000/- from him. Out of this amount Rs. 3,000/- was meant for the appellant and Rs. 5,000/- for Vivek Kumar, the Controller of Explosives. A trap was laid on 11.07.2017 and the tainted currency notes were recovered from underneath the keyboard of the computer table of the appellant.

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3. The appellant was arrested on 11.07.2017 and was released on bail on 23.08.2017. He remained on bail throughout the trial. At its conclusion the learned Special Judge, CBI Court, Chandigarh, held him guilty vide judgment dated 18.08.2026 and, by order dated 20.08.2026, sentenced him to undergo rigorous imprisonment for four years and to pay a fine of Rs. 10,000/- under each of Section 7 and Section 13(2) of the PC Act, with simple imprisonment for six months in default of payment of fine. Both the substantive sentences were ordered to run concurrently.

4. Learned Senior counsel for the appellant has argued that the prosecution failed to prove the demand and acceptance of illegal gratification, which are *sine qua non* for a conviction under Sections 7 and 13(1)(d) of the PC Act. The shadow witness PW18 (Annexure A-2) has stated that the demand on the date of trap was made merely by way of a gesture. The complainant PW11 (Annexure A-1) has admitted in cross-examination that no fresh demand was raised on 11.07.2017. The spy camera with which the complainant was equipped does not depict the acceptance of the bribe. There is also a contradiction about the place of recovery as the complainant is heard in the audio recording referring to the drawer whereas the recovery is shown from underneath the keyboard slider. The appellant remained on bail for about nine years during the trial without any misuse of liberty, has no criminal antecedents and has a family dependent upon him. He has already undergone custody of about three months. The sentence is for a fixed term of four years only and the appeal, being of the year 2026, is not likely to be heard in the near future. The appeal would thus be rendered infructuous if the appellant is made to serve the entire sentence. To buttress his arguments, learned counsel has relied upon the authority cited as ***Sohail Gohar v. State of Madhya***

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Pradesh, Criminal Appeal No. 2058 of 2025, decided on 17.04.2025 by the Hon'ble Supreme Court.

5. *Per contra*, learned counsel for the respondent-CBI has opposed the application by arguing that the offences under the PC Act are grave and strike at the root of public administration. The learned Special Judge has appreciated the evidence at length and has found the demand and acceptance to be proved through the consistent testimony of the complainant and the shadow witness, corroborated by the recorded conversation during verification, the voice report, the positive phenolphthalein hand wash and the recovery of the tainted currency notes from the table of the appellant. The discrepancies pointed out are minor and do not go to the root of the prosecution case. Suspension of sentence is not to be granted as a matter of routine after conviction and the appellant has not shown any exceptional circumstance. The judgment in ***Sohail Gohar's case (supra)*** turned on its own facts as the appellant there had already undergone more than nine months of the sentence. Prayer is accordingly made for dismissal of the application.

6. This Court has heard the rival submissions at considerable length, besides going through the material placed on record.

7. The sentence awarded to the appellant is for a fixed term of four years. The Hon'ble Supreme Court has repeatedly held that where a convict is sentenced to a fixed term and files an appeal, suspension of sentence is to be considered liberally unless there are exceptional circumstances. In ***Bhagwan Rama Shinde Gosai v. State of Gujarat (1999) 4 SCC 421*** it was observed as under:-

> "When a convicted person is sentenced to fixed period of sentence and when he files 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

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> 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 limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when motion for expeditious hearing the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in 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 must bestow special concern in the matter suspending the sentence, so as to make the appeal right meaningful and effective. Of course appellate courts can impose similar conditions when bail is granted."

8. The same view was reiterated by the Hon'ble Supreme Court in ***Aasif @ Pasha v. The State of U.P. (2025 INSC 944)***, where the maximum sentence was four years and the refusal of the High Court to suspend it was set aside, as the appeal would become infructuous if four years were to elapse in jail. It was added that only compelling circumstances showing that release would not be in public interest can justify refusal. In ***Sohail Gohar's case (supra),*** the appellant was convicted under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act with a maximum substantive sentence of four years. The Hon'ble Supreme Court set aside the order of the High Court declining suspension, taking note of the huge pendency of criminal appeals and directed the appellant to be enlarged on bail during the pendency of the appeal. The offences and the sentence in the present case are identical.

9. No statutory restriction against suspension of sentence under the PC Act has been brought to the notice of this Court. The gravity of the offence, though undoubtedly a relevant consideration, cannot by itself be treated as an exceptional circumstance in a case of a fixed term of four years. The argument that the custody

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of nine months in ***Sohail Gohar's case (supra)*** was the deciding factor is not well founded, as the Hon'ble Supreme Court primarily proceeded on the liberal approach applicable to fixed term sentences and the pendency of appeals, which holds equally good here. More so, the appellant remained on bail for about nine years from 23.08.2017 and nothing has been brought to the notice of this Court to show that he misused the liberty or tampered with the prosecution evidence. This circumstance indicates that he is not likely to flee from justice. The record of the trial which continued for nine years is voluminous and the appeal is not likely to be taken up soon.

10. In view of the above discussion, this Court is of the considered opinion that the appellant has made out a case for suspension of sentence. Resultantly, the application is allowed. The sentence awarded to the appellant is suspended during the pendency of the appeal. The appellant shall be released on bail on his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. He shall not leave the country without the permission of the Court.

11. Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the appeal.

(MANISHA BATRA)
JUDGE

21.11.2026
Waseem R. Ansari

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