

**HIGH COURT OF MADHYA PRADESH BENCH****AT GWALIOR****CRA NO.6089/2021*****(Subhas Sharma and Others Vs. State of M.P.)*****Dated, 19/09/2025***Shri Sushil Goswami – Advocate for the appellants.**Shri B.P.S. Chauhan – Public Prosecutor for the respondent/State.*

1. Heard on **I.A.No.19387/2025**, **second repeat** application under Section 389(1) of Cr.P.C. for suspension of sentence and grant of bail filed on behalf of appellant No.3-Mahesh Sharma.

2. The instant appeal has been preferred by present appellant against the impugned judgment of conviction and sentence dated 16/09/2021 passed by Additional Sessions Judge & Special Judge No.4 (Electricity Act), Gwalior in Sessions Trial No.147/2015; whereby, present appellant No.3 has been convicted under:

Section	Imprisonment	Fine	Default in lieu thereof
302/149 IPC (two counts)	Life Imprisonment	10,000/-	01 year RI
148 IPC	01 year RI	5,000/-	09 months' RI
25(1-b) Arms Act	03 years' RI	5,000/-	09 months' RI
27(1) of Arms Act	05 years RI	5,000/-	01 year RI
120(b) IPC	Life Imprisonment	10,000/-	01 year RI

3. It is the submission of counsel for appellant that the trial Court

erred in convicting and awarding jail sentence to present appellant No.3. It is further submitted that present appellant has already suffered around 10 years and 08 months' of actual custody as pre and post trial confinement. Therefore, as per judgments of Hon'ble Supreme Court in **Kashmira Singh Vs. The State of Punjab reported in (1977) 4 SCC 291** , **Sonadhar Vs. The State of Chhattisgarh [Special Leave to Appeal (Crl.) No(s).529/2021]** & **Saudan Singh Vs. The State of Uttar Pradesh [Crl.Appeal Nos.308-324/2022 @ SLP (Crl.) No.4633/2021]**, present appellant is entitled to get benefit of suspension of sentence. It is further submitted that co-appellants **Bunty @ Rajesh Sharma and Rajesh Katare**, who have undergone 10 years & 5 months and 10 years & 8 months jail sentence respectively, have been granted suspension of sentence by the Coordinate Bench of this Court vide order dated 07.07.2025 and the case of present appellant is more or less similar to that of aforesaid co-accused. He has a good case on merits and final hearing of appeal would take some time. Fine amount has already been deposited.

4. At this stage, learned counsel submits that appellant No.3 voluntarily undertakes to perform community service to purge his misdeed, if any and to serve National /Environmental/Social cause. With the aforesaid submissions, he prays for suspension of sentence and grant of bail to present appellant till final disposal of this appeal

5. Learned counsel for respondent/State opposed the application and prayed for its dismissal by supporting the impugned judgment. However, he affirmed the fact regarding period of custody suffered by present appellant

6. Heard the counsel for parties and perused the record.
7. The Hon'ble Supreme Court in the case of **Kashmira Singh Vs. The State of Punjab (1977) 4 SCC 291** has observed that it would indeed be a travesty of justice to keep a person in jail for a period of five or six years, if the Court is not able to hear the appeal of an accused within a reasonable period of time. The Supreme Court while observing that unless there are cogent grounds for acting otherwise, the accused be released on bail or suspend the sentence of accused, during pendency of the appeal.
8. The Hon'ble Supreme Court in another decision dated 06.10.2021 in **Sonadhar Vs. The State of Chhattisgarh [Special Leave to Appeal (Crl.) No(s).529/2021]** has held that in the State of UP, where cases of 'life convicts' are pending for a long period and large incarceration has already undergone, the cases be remitted to the High Court for an early consideration on the pleas of bail.
9. Also, in **Saudan Singh Vs. The State of Uttar Pradesh [Crl.Appeal Nos.308-324/2022 @ SLP (Crl.) No.4633/2021]** the Hon'ble Supreme Court in view of the fact that the appellant therein was in jail for eight years, released him on bail.
10. The mandate of Section 389 Cr.P.C. provides that while releasing an accused on bail or suspending the sentence, the Appellate Court has to record reasons.
11. Considering the arguments advanced by learned counsel for the parties and the fact that present appellant has already suffered around 10 years and 08 months of incarceration as pre and post trial detention as

well as in the light of the aforesaid judgments and in view of the fact that co-accused **Buntly @ Rajesh Sharma and Rajesh Katare (supra)** have already been enlarged on bail, this Court intends to allow the application for suspension of sentence (I.A. No.19387/2025).

**12.** If appellant No.3- Mahesh Sharma furnishes bail bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** along with two solvent sureties of the like amount to the satisfaction of the trial Court that he shall appear before the Principal Registrar of this Court **on 24/11/2025** and thereafter, on all other subsequent dates as may be fixed by the Office for appearance, then he shall be released on bail and execution of jail sentence is suspended till disposal of this appeal, subject to deposit of fine amount.

**13.** It is made clear that this bail by way of suspension of sentence is granted once the case is made out for bail and thereafter, direction for plantation of saplings is given and it is not the case where a person intends to serve social cause, can be given bail without considering the merits.

“एतद् द्वारा यह निर्देशित किया जाता है कि आवेदक **10 पौधे का (फल देने वाले पेड़ अथवा नीम/पीपल) रोपण करेगा** तथा उसे अपने आस पड़ोस में पेड़ों की सुरक्षा के लिए बाड़ लगाने की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सकें। आवेदक का यह कर्तव्य है कि न केवल पौधों को लगाया जाए, बल्कि उन्हें पोषण भी दिया जाए। **“वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।”** आवेदक विशेषतः **6-8 फीट ऊँचे पौधे/पेड़ों को 3-4 फीट गड्ढा करके लगायेगा** ताकि वे शीघ्र ही पूर्ण विकसित हो सकें। अनुपालन सुनिश्चित करने के लिए, आवेदक को रिहा किये जाने की दिनांक से 30 दिनों के भीतर संबंधित विचारण न्यायालय के समक्ष वृक्षों/पौधों के रोपण के सभी फोटो प्रस्तुत करना होंगे। तत्पश्चात्, विचारण के समापन तक हर तीन महीने में आवेदक के द्वारा विचारण न्यायालय के

समक्ष प्रगति रिपोर्ट प्रस्तुत की जाएगी ।

वृक्षों की प्रगति पर निगरानी रखना विचारण न्यायालय का कर्तव्य है क्योंकि पर्यावरण क्षरण के कारण मानव अस्तित्व दांव पर है और न्यायालय अनुपालन के बारे में आवेदक द्वारा दिखाई गई किसी भी लापरवाही को नजर अंदाज नहीं कर सकता है। इसलिए आवेदक को पेड़ों की प्रगति और आवेदक द्वारा अनुपालन के संबंध में एक रिपोर्ट प्रस्तुत करने के लिए निर्देशित किया जाता है एवं आवेदक द्वारा किये गये अनुपालन की एक सक्षिप्त रिपोर्ट विचारण न्यायालय के समक्ष प्रत्येक तीन माह में (अगले छः महीनों के लिए) रखी जायेगी जिसे कि “निर्देश” शीर्षक के अंतर्गत रखा जाएगा।

वृक्षारोपण में या पेड़ों की देखभाल में आवेदकगण की ओर से की गई कोई भी चूक आवेदक को जमानत का लाभ लेने से वंचित कर सकती है।

आवेदक को इन पौधों/पेड़ों को रोपने की स्वतंत्रता होगी, यदि वह इन रोपे गये पेड़ों की ट्री गार्ड या बाड़ लगाकर रक्षा करना चाहता है, अन्यथा आवेदक को वृक्षों के रोपण के लिए तथा उनके सुरक्षा उपायों के लिए आवश्यक खर्च वहन करना होंगे।

इस न्यायालय द्वारा यह निर्देश एक परीक्षण प्रकरण के तौर पर दिए गए हैं ताकि हिंसा और बुराई के विचार का प्रतिकार, सृजन एवं प्रकृति के साथ एकाकार होने के माध्यम से सामाजस्य स्थापित किया जा सके। वर्तमान में मानव अस्तित्व के आवश्यक अंग के रूप में दया, सेवा, प्रेम एवं करुणा की प्रकृति को विकसित करने की आवश्यकता है क्योंकि यह मानव जीवन की मूलभूत प्रवृत्तियां हैं और मानव अस्तित्व को बनाए रखने के लिए इनका पुनर्जीवित होना आवश्यक है।

*“यह प्रयास केवल एक वृक्ष के रोपण का प्रश्न न होकर बल्कि एक विचार के अंकुरण का है।”*

**14.** It is expected from present appellant No.3 that he shall submit photographs by downloading the mobile application (NISARG App) prepared at the instance of High Court for monitoring the plantation through satellite / Geo- Tagging / Geo fencing etc.

**15.** The appellant shall not be source of embarrassment and harassment to the complainant side in any manner and he shall not move in their

vicinity; otherwise, benefit of bail given today by way of suspension of sentence shall be withdrawn immediately.

**16. Present appellant No.3 shall mark his presence before concerned Police Station on first Sunday of every alternate month between 10:30 am to 2:00 pm for the next two years.**

**17. IA stands allowed and *disposed of*.**

**18. Copy of this order be sent to the trial Court concerned for compliance from the office of this Court. Certified copy as per rules.**

**(ANAND PATHAK)  
JUDGE**

**(PUSHPENDRA YADAV )  
JUDGE**