



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc. Stay Petition No. 3208/2026

In

S.B. Criminal Appeal No. 964/2018

Dharamraj S/o Shri Narayanlal, Aged About 30 Years, R/o Motipura P.S. Jahajpur, Distt. Bhilwara,raj. Presently Working As An Additional Commissioner (Indian Revenue Service), Posted At Kolkata.

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Dr. Sachin Acharya, Senior Advocate assisted by Mr. Ashok Khilery, Adv., & Mr. Zeeshan Ali, Adv.

For Respondent(s) : Mr. Lalit Kishor Sen, PP with Mr. R.S. Bhati, Asstt. G.A.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

17/04/2026

1. Vide judgment dated 16.08.2018 passed by learned Additional Sessions Judge, Shahpura, District Bhilwara in Sessions Case No.53/2009 (32/2007)(125/2007), the appellant-application has been convicted for offences punishable under Sections 147, 447, 325/149, 323/149 of IPC and sentenced to maximum punishment for three years SI.

2. Dr. Sachin Acharya, learned Senior Counsel for the appellant-applicant assisted by Mr. Ashok Khilery and Mr. Zeeshan Ali, submits that the appellant along with other accused persons filed



a criminal appeal (No.964/2018), challenging their conviction and sentence. By order dated 05.09.2018, the appeal has been admitted and application for suspension of execution of sentence, filed on behalf of the applicant appellant has already been accepted and the execution of sentence has been suspended during pendency of the appeal. Dr. Acharya submits that presently, the appellant is working on the post of Additional Commissioner in Indian Revenue Services and posted at Kolkata. Since the present appeal is pending, the Department has initiated disciplinary proceedings in relation to the present matter, against him. Learned counsel argues that since disciplinary proceedings are pending against the appellant, the appellant prefers the present petition seeking stay on conviction as the Department may take any coercive action against the appellant on the basis of pendency of the present criminal appeal. He further submits that during pendency of the present petition, by order dated 13.04.2026 passed by Department of Revenue, Ministry of Finance, Govt. of India, the appellant-applicant has been put under suspension with immediate effect.

3. Learned Senior Counsel Dr. Acharya submits that at the time of alleged incident, the applicant was a very young boy of only 19 years and preparing for UPSC examination. During trial, the appellant was selected for Indian Revenue Services. He contends that during trial, on an application under Section 319 Cr.P.C., the appellant-applicant was arraigned as an additional accused in the present case. He contends that cognizance was taken against the





appellant-applicant after more than four years of alleged crime on 17.12.2011 after he had cleared his UPSC examination in July, 2011. Learned Senior Counsel Dr. Acharya submits that the appellant has no other criminal antecedents and has not been found involved in any other criminal case except the present one. He argues that hearing of the appeal is not likely in near future. The appellant is under apprehension that the Department may take further coercive action and at culmination of disciplinary proceedings, may remove him from service which would cause him irreparable loss. He also contends that the alleged offences do not involve moral turpitude. He thus, prays that the instant stay petition may be accepted. In support of his contentions, learned Senior Counsel has relied upon following judgments:-

- (i) Navjot Singh Sidhu Vs. State of Punjab & Anr. [2007(2) SCC 574];
- (ii) Afjal Ansari Vs. State of U.P. [(2024) 2 SCC 187];
- (iii) Rahul Gandhi Vs. Purnesh Ishwarbhai Modi & Anr. [(2024) 2 SCC 595]
- (iv) Fateh Singh Vs. State of Rajasthan, S.B. Criminal Misc. Petition No.18517/2017, decided on 07.08.2019.

4. Learned State Counsel has opposed the prayer made by the counsel for the appellant. He submits that grant of stay of conviction can be resorted to in rare cases depending upon the special facts of the case but in the present case, there are no such special facts warranting stay of conviction.





5. I have heard both the parties and perused the material available on record. I have also gone through the judgments relied upon by learned Senior Counsel.

6. Hon'ble Supreme Court in the case of Navjot Singh Sidhu (supra) has held as under:-

"3. Before proceeding further it may be seen whether there is any provision which may enable the Court to suspend the order of conviction as normally what is suspended is the execution of the sentence. Sub-section (1) of Section 389 says that pending any appeal by a convicted person, the appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released or bail, or on his own bond. This Sub-section confers power not only to suspend the execution of sentence and to grant bail but also to suspend the operation of the order appealed against which means the order of conviction. This question has been examined in considerable detail by a Three Judge Bench of this Court in [Rama Narang v. Ramesh Narang & Ors.](#) (1995) 2 SCC 513 and Ahmadi, C.J., speaking for the Court, held as under (para 19 of the reports) :-

"19. That takes us to the question whether the scope of Section 389(1) of the Code extends to conferring power on the Appellate Court to stay the operation of the order of conviction. As stated earlier, if the order of conviction is to result in some disqualification of the type mentioned in [Section 267](#) of the Companies Act, we see no reason why we should give a narrow meaning to Section 389(1) of the Code to debar the court from granting an order to that effect in a fit case. The appeal under Section 374 is essentially against the order of conviction because the order of sentence is merely consequential thereto; albeit even the order of sentence can be independently challenged if it is harsh and disproportionate to the established guilt. Therefore, when an appeal is preferred under Section 374 of the Code the appeal





is against both the conviction and sentence and, therefore, we see no reason to place a narrow interpretation on Section 389(1) of the Code not to extend it to an order of conviction, although that issue in the instant case recedes to the background because High Courts can exercise inherent jurisdiction under Section 482 of the Code if the power was not to be found in Section 389(1) of the Code. We are, therefore, of the opinion that the Division Bench of the High Court of Bombay was not right in holding that the Delhi High Court could not have exercised jurisdiction under Section 482 of the Code if it was confronted with a situation of there being no other provision in the Code for staying the operation of the order of conviction. In a fit case if the High Court feels satisfied that the order of conviction needs to be suspended or stayed so that the convicted person does not suffer from a certain disqualification provided for in any other statute, it may exercise the power because otherwise the damage done cannot be undone; the disqualification incurred by [Section 267](#) of the Companies Act and given effect to cannot be undone at a subsequent date if the conviction is set aside by the Appellate Court. But while granting a stay or suspension of the order of conviction the Court must examine the pros and cons and if it feels satisfied that a case is made out for grant of such an order, it may do so and in so doing it may, if it considers it appropriate, impose such conditions as are considered appropriate to protect the interest of the shareholders and the business of the company."

The aforesaid view has recently been reiterated and followed by another Three Judge Bench in [Ravi Kant S. Patil v. Sarvabhuma S. Bagali JT](#) 2006 (1) SC 578. After referring to the decisions on the issue, viz., [State of Tamil Nadu v. A. Jaganathan](#) (1996) 5 SCC 329, [K.C. Sareen v. C.B.I.](#), Chandigarh (2001) 6 SCC 584, B.R. Kapur v. State of T.N. & Anr. ([2001](#)) 7 SCC 231 and [State of Maharashtra v. Gajanan & Anr.](#) (2003) 12 SCC 432, this Court concluded (para 12.5 of the report) :

"All these decisions, while recognizing the power to stay conviction, have cautioned and clarified that such power should be exercised only in exceptional circumstances where failure to stay the conviction, would lead to injustice and irreversible consequences."

The Court also observed :-

"11. It deserves to be clarified that an order granting stay of conviction is not the rule but is an exception to be resorted to in rare cases depending upon the facts of a case. Where the execution of the sentence is stayed, the conviction continues to operate. But where the conviction itself is stayed, the effect is that the conviction will not be operative from the date of stay. An order of stay, of course, does not render the conviction non-existent, but only non-operative. .."

The legal position is, therefore, clear that an appellate Court can suspend or grant stay of order of conviction. But the person seeking stay of conviction should specifically draw the





attention of the appellate Court to the consequences that may arise if the conviction is not stayed. Unless the attention of the Court is drawn to the specific consequences that would follow on account of the conviction, the person convicted cannot obtain an order of stay of conviction. Further, grant of stay of conviction can be resorted to in rare cases depending upon the special facts of the case."

7. Thus, it is settled law that an appellate Court can suspend or grant stay of order of conviction but the person seeking stay of conviction should specifically draw the attention of the appellate Court to the consequences that may arise if the conviction is not stayed. In the present case, by effect of order dated 05.09.2018, execution of sentence has already been suspended and the appeal has been admitted. Looking to the huge pendency, hearing of present appeal is not likely in near future. Disciplinary proceedings are going on against the appellant and during pendency of the stay petition, by effect of order dated 13.04.2026, the appellant has been put under suspension and on completion of the proceedings, he may be removed from services in accordance with services rules. However, in any event, if the appellant is acquitted of the charges in appeal, he would have suffer irreparable loss, which cannot be compensated in terms of money. This Court also considers the fact that alleged incident is of year 2007 and at the time of alleged incident, the appellant was 19 years old and on the application under Section 319 Cr.P.C., he was summoned as an additional accused. During pendency of trial, he got selected for revenue services, which undoubtedly, is not an easy task. Further, the alleged offences do not amount to moral turpitude. Thus, in light of law laid down by Supreme Court in aforementioned cases,





and in the peculiar facts and circumstances of the present case and having considered the submissions advanced by learned senior counsel, I am of the considered opinion that the order of conviction needs to be stayed, during pendency of the appeal. Accordingly, conviction of the appellant recorded by learned Additional Sessions Judge, Shahpura, District Bhilwara vide judgment and order dated 16.08.2018 in Sessions Case No.53/2009 (32/2007)(125/2007) for offences punishable under Sections 147, 447, 325/149, 323/149 of IPC is hereby stayed qua the appellant during pendency of the appeal. The Criminal Misc. Stay Petition is allowed accordingly.

(ANIL KUMAR UPMAN),J

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