IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO. 4 of 2025
In R/CRIMINAL APPEAL NO. 1756 of 2019

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NARAYAN @ NARAYAN SAI @ MOTA BHAGWAN S/O ASHARAM @ ASHUMAL HARPALANI
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MS KRUTI SHAH, ADVOCATE WITH MR JAY N SHAH(10668) for the PETITIONER(s) No. 1
MR JIGAR I SALVI(13796) for the PETITIONER(s) No. 1
MR NANDISH THACKAR, ADVOCATE WITH BHAGIRATH N PATEL(9016) for the RESPONDENT(s) No. 2
MR L B DABHI, APP for the RESPONDENT(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 04/05/2026

IA ORDER
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. We have heard learned counsel Ms. Kruti Shah with Mr. Jay Shah, appearing for and on behalf of the applicant-convict, Mr. L.B. Dabhi, learned APP for the respondent-State and Mr. Nandish Thackar with Mr. Bhagirath Patel, learned counsel appearing for and on behalf of the respondent-complainant.

2. This fifth successive bail application is filed seeking suspension of sentence and grant of bail on the ground mentioned in the application.

3. The applicant–convict Narayan @ Narayan Sai, and others were

chargesheeted for the offences punishable under Sections 376(2)(c), 377, 354, 504, 506(2), 508 and 323 of the IPC. He was tried and prosecuted by the 2nd Additional Sessions Judge, Surat in Sessions Case No.141 of 2014. The learned Sessions Judge, after appreciation of the evidence, vide its judgment dated 30.04.2019, held guilty the applicant accused for the following offences and sentenced as under:

Section	Imprisonment	Fine	In default
S.376(2)(c) of IPC	Life Imprisonment	Rs.1 lakh	Imprisonment for 1 year
S.377 of IPC	Life Imprisonment	Rs.1 lakh	Imprisonment for 1 year
S.354 of IPC	Imprisonment of 3 year	Rs.25,000/-	Imprisonment for 6 months
S.504 of IPC	Imprisonment for 1 year	Rs.5,000/-	Imprisonment for 3 months
S.506(2) of IPC	Imprisonment for 3 years	Rs.5,000/-	Imprisonment for1 month
S.508 of IPC	Imprisonment for 1 year	Rs.5,000/-	Imprisonment for 1 month
S.323 of IPC	Imprisonment for 6 months	Rs.5,00/-	Imprisonment for 1 month

All the sentences ordered to be run concurrently.

4. Facts and circumstances leading to file this application are as follows:

4.1 That the prosecutrix along with her family members, in the year December-2001, participated in the religious discourses, which was organized at Jahangirpura Ashram, Surat. On the last day of the program, the convict applicant who is son of Shri Asharam, asked the prosecutrix to visit the Meghnagar Town in Jahabua District of Madhya Pradesh, since Ashram was to be built there and his religious discourse was also scheduled at Meghnagar.

4.2 That the prosecutrix along with other devotees went to Meghnagar from Surat. Thereafter, she was asked to visit Bihar to construct the Ashram there. The accused, after constructing the Ashram, was arrived for religious discourse and on the same day, the victim was called upon in the Kutir of Ashram where she was sexually molested by the convict applicant herein. Thereafter, the victim and others travelled to various cities of Bihar at the instance of convict for the work and while returning to Surat, Gujarat, the victim had participated in the program of convict at Mahashtra and then, she came back to Surat. There she was asked to visit, Kutiya of accused at Surat Ashram, where she was forced to indulge into the act of unnatural sex with the applicant who also thereafter, committed rape upon her. The prosecutrix then asked to visit Gambhoi Ashram situated at Himmatnagar where she was entrusted with the administration of the Ashram and coupled of weeks later, she was called upon by the accused with another devotee DW:10, to his Kutir (house) and he had engaged in polyamory, by engaging himself in the acts of sexual exploitation and rape.

4.3 In the aforesaid facts, the prosecutrix had left the Ashram in 2004, due to frustration and humiliation and continued act of sexual exploitation, however, having regard to the background of convict and his father, she had no courage to report to anyone including her parents who were staunch followers of the applicant and his father. However, after arrest of Asharam Bapu (father of the applicant) in an offence of similar nature, registered at Jodhpur, Rajasthan and rejection of his bail application upto the Rajasthan High Court, she mustered courage and lodged the FIR with Jahangirpura Police Station, Surat (Exh.384) on 06.10.2013, against the applicant – accused and others.

4.4 In the aforesaid facts and circumstances, upon due investigation of the case, chargesheet came to be filed against the applicant and others. The Sessions Court, Surat proceeded to record the evidence. At the conclusion of the trial, the Sessions Court held guilty the accused and others for the offences, as referred above.

5. Ms. Kruti Shah, learned advocate, while praying for suspension of sentence, made following submissions:

(A) That the applicant accused came to be arrested on 04.12.2023 and during the trial, he was not on bail and after judgment dated 30.04.2019, his total period of incarceration as on date is more than 12 years. In other words, the convicted has undergone substantial period of incarceration of more than 10 years. Thus, on this aspect, the discretion may be exercised in favour of the applicant accused. In support of the contentions, learned counsel is relying on the following judgments:

(1) Saudan Singh Vs. State of U.P.
(2023) 17 SCC 446 (Pg.No.271),

(2) Suleman Vs. State of U.P.
CR.A. No.491 of 2022 (Incarceration undergone 10 years)

(3) Akhtari Bi Vs. State of M.P.
2001 SCC 355 (Appeal not disposed off within 5 years)

(4) Sonadhar Vs. State of Chhattisgarh
Order dated 15.09.2022,

(5) Edwin Pigarzen Vs. State of Kerala

(6) Ebrahim Ansari Vs. State of U.P.

(7) Muna Bisoi Vs. State of Odisha

(B) That according to the prosecution case, the prosecutrix and her family were devoted followers of Shri Asharamji – father of the applicant and regularly visiting Surat Ashram and had attended religious discourses to be held in various Ashram. The victim in the year 2010 along with her family participated in religious discourse held at Jahangpura Ashram, Surat and on the last day of the program, the applicant accused asked her to attend Meghnagar, M.P. with him, so as to develop the construction of Ashram, etc. It is in these background facts, the victim was molested when she was at Bihar and then, by calling upon her at Surat Ashram, she was subjected to sexual assault and act of unnatural sex by the accused herein. After referring the evidence led by the prosecution as well as accused, it was submitted that the victim's version is not credible and truthful, as there are

several lacuna, and contradiction found in her evidence, which clearly established that her evidence suffered from infirmities, and factor of improbability would render her evidence unworthy of acceptance and without corroboration, her solitary evidence is not sufficient to base the conviction. In this regard, it was submitted that;

(i) As per the case, she was first molested at Ahiyari Bihar, however, she did not utter a single word or inform any of girls who were accompanied the victim nor raised any hue and cry or alarm, but she was in the company of the accused for a considerable time which go to show that her conduct is contrary to the natural human conduct, as even after the trip, when she arrived at Surat, she attended the call of the accused and went to the Surat Ashram.

(ii) That the tour program did not have taken place in the year 2002 but it was planed in the year 2003. It is the say of the victim that the program of Ahiyari Bihar was organized on the occasion of Ramnavami. In this regard, the defence has produced panchang of 2002-2003 to show that Ravnavami, as the land upon which the construction to be constructed, was donated by registered gift deed in the year 2003, not with the date of Ramnavami – 2002. The victim suppressed the travelling to Mallagam and her presence is established by proving the electronic evidence. Despite of this, she has denied to have visit at Mallagam. Thus, the entire tour did not have taken place in 2002 , but in 2003 and if it is so, then the presence of the victim

at the Surat Ashram where she was alleged to have been sexually exploited is falsified by cogent, reliable and uncontroverted electronic evidence. In such circumstances, it is on record that the victim had given false evidence on oath and her sole evidence does not inspire confidence and her evidence cannot be termed to be sterling quality.

(iii) That as per the version of the victim, DW:10 – victim – X could be termed as co-victim in respect of the incident occurred at Gambhoi Ashram. She was cited as prosecution witnesses in the chargesheet, however, she was not examined. The request for defence to examine her as a Court witness made by the defence was rejected. She was examined as defence witness, wherein she had denied of any such incident that had been taken place at Gambhoi at any point of time.

(iv) That there is inordinate delay in lodging the FIR, that too without any acceptable and convincing ground and/or reason. The incidents of sexual harassment and exploitation, came to be occurred between 2001 to 2004, for which the FIR registered on 06.10.2013. The explanation offered is flimsy, lame excuse and not satisfactory as after the incident, she was continued as an administrator of Ashram and had an occasion to file an FIR and even after 2003, she had attended spiritual discourses of the accused at Kosamba and Balasinor. Thus, considering the conduct of the victim and inordinate delay in lodging the FIR would create a serious doubt regarding her version and the same

is fatal to the case of the prosecution.

(v) There are material contradictions, omissions, improvements and discrepancies in various versions of the victim i.e. FIR, statements under Section 161, statement under Section 164 Cr.P.C. and her evidence before the Court.

(vi) That it has come on record that the victim PW:29 has given false evidence on oath, and her credibility is impeached by her evidence as well as other evidence of prosecution and defence and her evidence is not of sterling quality.

(C) That the witnesses examined are inimical and interested witnesses as such, Mahendra Chavla, Ishwar Nayak (PW:26) and wife of the accused Janki and have no any personal knowledge with regard to the incident.

(D) That the investigation is not fair and several lapses in the investigation as the I.O. PW:51 A.R. Munsi, during the investigation, failed to collect, reliable and legal evidence on the aspect of incident and chargesheet having been filed with malafide intention.

(E) That the prosecution failed to examine material witnesses as there were six girls who had accompanied the victim during the entire tour. However, the material witnesses who had accompanied to the victim were not examined. Even the elder sister of the victim who is the first person to whom the victim allegedly disclosed the incident in the year 2007 and whose statement was recorded under Section 161 and was cited as witness in the chargesheet has not been examined.

(F) That the Trial Court failed to appreciate the defence evidence in its true perspective because DW:10 shanti has not at all been considered and other evidence by which the defence has successfully impeached credibility of the victim has not been properly evaluated.

6. In such circumstances, referred to above, Ms. Kruti Shah, learned counsel submitted that having regard to the period of incarceration and possible delay in hearing of the appeal, the prayer for suspension of sentence and grant of bail may be considered. On the aspect of subsequent registration of the FIRs against the applicant accused, Ms .Shah submitted that all the proceedings pertain to the incident happened during 2013-2015 and that too after the applicant involved in the present offence and the registration of the said FIR are nothing but a larger conspiracy and the accused was victimized by political circumstances. So far as law and situation is concerned, it was submitted that as and when accused was released on temporary bail, no untoward incident had taken place nor any FIR is lodged for the breach of terms and conditions of the bail order. Thus, it was submitted that the applicant accused is diabetic, having complaint of migraine, also having severe back pain due to spinal cord issue.

7. Learned counsel Ms. Shah has relied on the following decisions:

1. *2026 INSC 238* Rajendra & Ors *v.* State of Uttarakhand
2. *Criminal Appeal No. 1110 of 2017* Ajit Kumarsinh Bhagora *v.* State of Gujarat

3. *(2015) 7 SCC 272* Mohammad Ali @ Guddu *v.* State of Uttar Pradesh

4. *AIR 2012 SC 3157* Rai Sandeep @ Deepu *v.* State of NCT of Delhi

5. *1995 SCC (5) 188* Mehraj Singh *v.* State of U.P

6. *Special leave to Appeal Criminal No. 7162 of 2024* Jitendra & Ors *v.* State of UP

8. Thus, therefore, it was submitted by Ms. Shah that, the applicant-accused has very fair chances of succeeding in his appeal and in the present case, exceptional circumstances are made out for exercise of the discretion for suspending the sentence.

9. *Per contra,* learned Additional Public Prosecutor Mr. L.B. Dabhi and Mr. Nandish Thackar, learned counsel appearing for the original complainant-victim have supported the findings recorded by the trial court and contended that;

(i) The victim's evidence does not suffer from any basic infirmities and she is the witness of sterling quality and her version is sufficient to believe the incident and there are no compelling reasons which necessitates the court to insist for corroboration of her statement and minor contradictions or small discrepancies should not be a ground for throwing the evidence of the victim.

(ii) The trial court after thorough analysis of the evidence of the victim and other evidence led by the prosecution, has rightly convicted the applicant-accused and others and at this stage, reanalysis of the evidence is not permitted in law.

(iii) That, this is a successive bail application. On the earlier occasion, the relief for granting bail and suspension of sentence was not pressed by the applicant and despite of this, by suppressing material facts before the Apex Court on this count, the convict without any reasons, went to Supreme Court. Thus, the applicant failed to demonstrate any change in circumstances after withdrawal of earlier bail application and now, this successive bail application cannot be entertained without showing change in circumstances.

(iv) That, the applicant-convict has been convicted and sentenced for life imprisonment by the trial court and now the benefit of presumption of innocence would not be available to him and therefore, no ground exists for entertaining this successive bail application.

(v) On the issue of delay in lodging the FIR, it was submitted that, the delay when explained to the satisfaction of the court, the delay in lodging the FIR may not itself a ground to discard the entire prosecution case and having regard to the seriousness of the offence and the background of the applicant-accused and his father, the victim was under fear and had apprehended about her life and family and the explanation whatever offered by the victim, the trial court was satisfied with the explanation and therefore, the delay

would not be a ground to create any suspicion on the prosecution case.

(vi) On the issue of long incarceration, it was submitted that, the convict himself is responsible for creation of such situation because since 2019, the appeal could not proceed further because of non-cooperation of the applicant-accused and he is only interested in getting the bail and therefore, having regard to the conduct of the applicant-accused, the ground of long incarceration, would not come to his rescue.

10. Learned APP as well as learned counsel appearing for the complainant have relied upon the following decisions:

Decisions relied by learned APP, Mr. LB Dabhi:

1. *(2023) 6 SCC 123* Omprakash Sahni *v.* Jai Shankar Chaudhary
2. *2024 INSC 325* Jadunath Singh *v.* Arvind Kumar & Ors.
3. *AIR 2021 SC 4384* Shakuntala Shukla *v.* State of UP

Decisions relied by learned advocate Mr. Nandish Thackar:

1. *AIR 1963 SC 1558* Hari Narain *v.* Badri Das
2. *(1983) 4 SCC 575* Welcom Hotel & Ors. *v.* State of Andhra Pradesh &. Ors.
3. *(2008) 12 SCC 481* K.D. Sharma *v.* Steel Authority of India Ltd. & Ors.

4. *(2024) 4 SCC 432* Kusha Duruka *v.* State of Odisha

5. *(2008) 1 SCC 560* Udyami Evam Gramodyog Khadi Welfare Sanstha & Anr. *v.* State of Uttar Pradesh & Ors.

6. *Civil Appeal No. 7550 of 2021* Shri K. Jayaram & Ors. *v.* Bangalore Development Authority & Ors.

7. *Criminal Appeal No. 2000 of 2025* Balram Dangi *v.* Veer Singh Dangi & Ors.

8. *(2008) 5 SCC 230* Sidhartha Vashisht Alias Manu Sharma *v.* State (NCT of Delhi)

9. *2024 SCC OnLine SC 842* Shivani Tyagi *v.* State of U.P. & Anr.

10. *2024 SCC OnLine SC 3320* Bhupatji Satajji Jabraji Thakor *v.* State of Gujarat

11. *Criminal Appeal No. 4804 of 2025* Chhotelal Yadav *v.* State of Jharkhand

12. *Criminal Miscellaneous Application No.7820 of 2006* Maganbhai Bindeshwari Patel *v.* State of Gujarat

13. *Criminal Appeal No. 2000 of 2025* Balram Dangi *v.* Veer Singh Dangi & Ors.

14. *2019 SCC OnLine Bom 155* Ashok Pundalik Gavade *v.* State of Maharashtra

11. In such circumstances, it was submitted by learned APP as well as learned counsel appearing for the victim that the convict failed to made out sufficient grounds for suspension of sentence and application

may not be entertained and deserves to be dismissed.

12. Having regard to the facts and circumstances, the issue falls for our consideration, as to whether the case is made out for suspension of sentence pending the appeal or not?

13. Before adverting to the submissions, it is relevant to refer the legal position with respect to the suspension of sentence and grant of bail, decided by the Supreme Court in its various decisions:

(i) In **Rajesh Ranjan Yadav Vs. CBI (2007 (1) SCC 70)**, the Apex Court, after referring its earlier decisions, [Kashmira Singh Vs. State of Punjab (1977 4 SCC 291) and Bhagirathsing Vs. State of Gujarat (1984 (1) SCC 284)] in para-10, observed that, there is no absolute and unconditional rule about when bail should be granted. The observations made in para-10 reads as under:

> *"Para-10: "In our opinion, none of the aforesaid decisions can be said to have been laid down any absolute and unconditional rule about when bail should be granted by the court and when it should not. It all depends upon the facts and circumstances of each case and it cannot be said that, there is any absolute rule that, because of long period of imprisonment has expired, bail must necessarily be granted."*

(ii) In the case of **Ash Mohammad Vs. Shivrajsinh @ Lalla Babu and another, (2012) 9 SCC 446**, the Supreme Court in para-30, while examining the societal interest and considering the antecedents examined the post conviction bail and discussed on the issue of desirability to suspend the sentence and grant of bail.

Para-30 reads as under :

> *"30. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been properly analysis is criminal antecedents. Needless to say, imposition of condition is subsequent to the order admitting an accused to bail. The question should be paused whether the accused deserves to be enlarged on bail or nor and only thereafter, imposing conditions would arise. We do not deny for a moment that period of custody is relevant factor but simultaneously the totality of circumstance and criminal antecedents are also to be weighed. They are to be weighed in the scale of collective crime and desire. The societal concerned has to be kept in view in juxtaposition of individual liberty. Regard being head to the said parameter, we are inclined to think that the social concerned in the case at hand, deserves to be given priority over-lifting the restriction on liberty of the accused."*
>
> [emphasis supplied]

(iii) In **Sidhartha Vashisht @ Manu Sharma Vs. State (NCT of Delhi)** reported in **(2008) 5 SCC 230**, referring the decision of Vijaykumar (2002) 9 SCC 364, the Supreme Court while examining the prayer of suspension of sentence emphasized that, in a case of involved in a serious offence, the court should consider all relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have committed, the gravity of offence, the desirability of releasing the accused on bail after he has been convicting for committing serious offence and also bearing in mind that, when the accused has been found guilty then, initial presumption of innocence in his favour is no more available to the applicant and therefore, the appellate Court shall not suspend the sentence

except only in an exceptional case and that too, in a case of existence of reasons to suspend the sentence.

(iv) Recently, Supreme Court while considering the scope of Section 389(1) of the Cr.P.C. in the case of **Omprakash Sahani Vs. Jayshankar Chaudhary (2023) 6 SCC 123**, after referring the earlier all decisions on this aspect, observed and held that, while dealing with the case of suspension of sentence and grant of bail, the appellate Court before allowing the prayer, should prima-facie come to a conclusion that, the conviction may not be sustainable. Para-33 is relevant to refer and same is reproduced hereunder:

> *"Para-33: Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the Trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The Appellate Court should not reappreciate the evidence at the stage of Section 389 of the CrPC and try to pick up few lacuna or loopholes here or there in the case of the prosecution. Such would not be a correct approach."*

14. In light of the aforesaid settled position of law and applying the

same to the facts of the present case and after perusal of the case records and impugned judgment, it appears that, in 2001, there was a religious discourse at Surat Ashram, where the victim met the applicant-accused Narayan Sai who is son of Shri Asharamji, who has established Ashrams across India and having thousands of followers and devotees for the awareness of spirituality etc. The accused proposed her to attend the Meghnagar Ashram where she stayed for a considerable time and from then, they went to Bihar for construction of Ashram where the victim was abused inappropriately by the accused. Thereafter, the victim came back to Surat. She was called upon by the accused at Surat Ashram where she was abused sexually and then, at Gambhoi Ashram where the victim was entrusted with the administration of the Ashram and during her stay, she was subjected to sexual abuse, raped and unnatural sex. It is in this context, when the father of the applicant-accused Asharam was arrested by Jodhpur Police on the same allegation and his bail application was rejected, the victim mustered courage to lodge an FIR and accordingly on 06.10.2013, she lodged an FIR. Upon filing of the chargesheet, the trial court proceeded to record the evidence and after appreciation of evidence of both the parties, it was observed by the trial court that, the evidence of victim does inspire confidence and her sole evidence is sufficient to base the conviction and trial court did not have found any major contradictions and improvements in the evidence of the victim. The trial court also assigned sufficient reasons on the aspect of delay in lodging the FIR and satisfied with the explanation offered by the victim.

Our Findings

15. In the aforesaid facts and circumstances, we are of the view that, once the accused stood convicted for a serious offence, the presumption of innocence would no longer exists and at this stage, the reanalysis and reappreciation of the evidence cannot be done as it is a subject matter of final hearing of the appeal. Thus, therefore, delay in lodging the FIR and other contentions as raised herein cannot be reviewed at this stage and if we made any observations on the merits, it would likely to cause prejudice to either of the parties and therefore, having regard to the nature of accusation and gravity of the offence, it is difficult for us to come to a prima-facie conclusion that, the applicant-convict has a fair chances of acquittal. Thus, on merits, we do not find any sufficient grounds for granting relief with respect to suspension of sentence and grant of bail.

16. The next contention raised is that, the convict-accused has undergone 11 years of incarceration and delay in hearing the appeal. It is no doubt true that, the applicant has undergone 11 years of his jail term. However, the fact remains that, since 2019 to till date, the applicant-convict has not cooperated in final hearing of the appeal. He had tried to get either temporary bail or permanent bail pending the appeal by filing numerous applications. In the year of 2021, while rejecting the bail application on merits, this Court has fixed the appeal for final hearing. However, it is on record that, the applicant-accused is never ready for hearing the appeal. Even, during the hearing of this application, we have asked to the learned counsel appearing for the

convict that, the court is ready to hear the appeal on day to day basis, but, the counsel, upon instructions has stated that, she has only instructions to argue the application for suspension of sentence and after disposal of this application, the convict is ready to argue the matter. In such circumstances, the convict himself has created a situation for his long incarceration. In other words, the convict himself is the contributory factor for passing the time and thus, now he is not entitled to claim that, due to long incarceration and delay in hearing the appeal, he may be released on bail pending the appeal. In order to visualize the conduct of the applicant-accused for adopting the delay tactics, the summary of applications and its result would be necessary to refer:

(i) CRMA No.2 of 2020 in CRA No.1756 of 2019, was withdrawn on 03.03.2021.

(ii) CRMA No.2 of 2021 in CRA No.1756 of 2019, came to be rejected on merits on 11.08.2021 and appeal was fixed in the month of November, 2021.

(iii) CRMA No.2 of 2023 in CRA No.1756 of 2019, was not pressed on 18.10.2023 and appeal was fixed for final hearing on 16.01.2024.

(iv) CRMA No.4 of 2024 in CRA No.1756 of 2019, withdrawn with a liberty to file fresh petition on 28.11.2024 as the appeal at relevant time was coming for hearing on 23.01.2025.

(v) CRMA No.1 of 2025 in CRA No.1756 of 2019, filed for bail and suspension of sentence pending the appeal, wherein, the accused-

applicant had not pressed the relief of bail and suspension of sentence on 20.06.2025 and his prayer was confined to temporary bail. The convict was granted five days temporary bail on humanitarian ground and simultaneously, the appeal was fixed for final hearing on 11.07.2025.

(vi) The convict herein as a part of delay tactics, challenged the rejection order dated 18.08.2021 passed in CRMA No.2 of 2021 as well as the order dated 20.06.2025 passed in CRMA No.1 of 2025 which was in his favour, by filing Special Leave Petition before the Supreme Court, wherein vide order dated 28.11.2025, the liberty was granted to the applicant-convict to file fresh application before this Court. The Supreme Court, while granting liberty, observed that, the High Court has failed to consider the merits on the earlier occasion. It is relevant to note that, on earlier occasion, three times i.e. on 18.10.2023, 28.11.2024 and 20.06.2025, the convict did not have pressed the order on merits and accordingly, the petitions filed by the convict came to be disposed of. The copy of the Special Leave Petition produced at Page no.80 of this application, the convict has nowhere mentioned that, on the last occasion, he had not pressed the application and did not invite reasoned order.

In such circumstances, in our opinion, the applicant-convict is not interested at all in expeditious hearing of his appeal and by adopting delay tactics, he having tendency to file repeated applications which conduct itself disentitle the applicant for discretionary relief and same would be nothing, but a misuse of process of law. Thus, in our

opinion, we do not find any merits in the ground of long incarceration and delay in hearing the appeal.

17. For the reasons recorded, the application fails and it is hereby dismissed. Notice discharged. The observations made herein are tentative and prima-facie in nature and confined to adjudication of this application only. The proceedings shows that, because of Summer Vacation, the appeal is coming on 12.06.2026. We hope that, on that day, the applicant-convict shall proceed with the hearing of the appeal.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

TAUSIF SAIYED