

OMPRAKASH SAHNI v. JAI SHANKAR CHAUDHARY, (2023) 6 SCC 123

~ Sarthak Mishra

FACTS

The case involves an incident where Manish Kumar, the Block Pramukh, was fatally shot after being summoned by the Block Development Officer. The incident occurred in August 2018, following which an FIR was filed based on a complaint by Om Prakash Sahni. Witnesses observed the shooting, and Manish Kumar was taken to the hospital but succumbed to his injuries. Some individuals were found guilty of his murder by the trial court, while others were acquitted. The complainant believes the killing was a collective plan.²

Thereafter, the attraction become filed before the High Court towards the trial court's selection by way of Respondents No. 1,3, and 4. However, the three Respondents asked the High Court to furnish them bail until their appeals were disposed of and the High Court suspended the substantive sentencing order for all three respondents and granted them bail. The brother of the deceased filed an appeal before the current court, feeling aggrieved by the order issued by The High court.³

ISSUES BEFORE THE COURT

1. Is there was any error in the judgement of the High court?
2. Suspension of conviction is matter of right or not?

¹ Application Under Section 389 (3) Crpc | Pdf,

[https://www.scribd.com/document/561536048/APPLICATION-UNDER-SECTION-](https://www.scribd.com/document/561536048/APPLICATION-UNDER-SECTION-389-3-CrPC)

[389-3-CrPC](https://www.scribd.com/document/561536048/APPLICATION-UNDER-SECTION-389-3-CrPC).² Indian Criminal Procedure and Compilation of Case Law Index,

Government Institutions

<https://www.scribd.com/document/218338590/Indian-Criminal-Procedure-and-Compilation-of-Case-Law-Index>.

ARGUMENTS

CONTENTIONS OF THE APPELLANT:

1. The discovered suggest performing on behalf of the Appellant contended that the High Court dedicated a grave error in releasing the three convicts on bail via exercising the strength below Section 389 of the Code of Criminal Procedure, 1973⁴
2. The high court made a significant mistake by suspending the original sentence of the convicts and granting them bail while their criminal appeals are pending final resolution.
3. Additionally, it was argued that when an accused is convicted of a serious offense, such as homicide, the presumption of innocence diminishes, and the High Court is expected to exercise great caution in granting bail. Furthermore, the prosecution's entire case relies heavily on eyewitness testimony.

CONTENTIONS OF THE RESPONDENT:

1. The counsel representing the Respondents argued that the High Court did not make any errors in postponing the sentencing order and granting bail to the convicts.
2. Thereafter, it become contended that the prosecution's entire case is relatively dubious and politically pushed. The prosecution has obscured the real foundation of the prevalence.⁵
3. It was contended that there is a very good opportunity that the convicts could be acquitted of their criminal appeals, and there is nothing incorrect with allowing them to live on bail anticipating the ultimate disposition in their separate crook appeals.
4. The fundamental tenant of criminal jurisprudence in our country- that an individual facing criminal charges is deemed innocent unless and until they are proved convicted by an administrative tribunal of law- was emphasized by the Supreme Court.

³ Abraham Thomas, SC rules HCs cannot suspend sentence unless case of acquittal made out, Hindustan Times (May 3, 2023), https://www.hindustantimes.com.cdn.ampproject.org/v/s/www.hindustantimes.com/india-news/supreme-court-sets-aside-high-court-order-allowing-convicts-to-remain-on-bail-in-patna-murder-case-101683053538303-amp.html?amp_gsa=1&_js_v=a9&usqp=mq331AQIUAKwASCAAgM%3D.

⁴ 2023 SCC Vol. 6 Part 1, SCC Times (June 1, 2023), <https://www-sconline->

[com.cdn.ampproject.org/v/s/www.sconline.com/blog/post/2023/07/10/2023-scc-vol-6-part-1/amp/?amp_gsa=1&js_v=a9&usqp=mq331AQIUAKwASCAAgM%3D](https://www.sconline.com/blog/post/2023/07/10/2023-scc-vol-6-part-1/amp/?amp_gsa=1&js_v=a9&usqp=mq331AQIUAKwASCAAgM%3D)

⁵ Articles – Manupatra, <https://articles.manupatra.com/article-details/Analysis-of-Suspension-of-Conviction-as-a-Statutory-Remedy>.

ANALYSIS OF ISSUES

❖ ISSUE 1: IS THERE WAS ERROR IN JUDGEMENT OF HIGH COURT?

"The assumption of innocent is void in the event that the accused is proved guilty. The assumption of innocent is further reinforced in the event that the accused is found not guilty."

- As a result, the appellant contended, the High Court need to proceed cautiously while determining bail because the presumption of innocence ends when someone is found guilty of serious crimes like murder. The appellant asserted that the High Court erred significantly in issuing the disputed order, which released the three convicts on bail while their appeals were awaiting final resolution, by suspending the primary sentence under Section 389 of the CrPC.

- The Code of Criminal Procedure established the Appellate Court and grants it the authority to examine and reexamine cases that have previously been decided by subordinate courts. As a result, the appellate court may, in accordance with the specifics of each case and the nature of the offence, suspend an accused person's sentence while they file an appeal under Section 389 of the Cr.P.C. and give bail to the appellant. It is stated that "Throughout an appeal brought by a condemned person, the court of appeals may, with justifications stated in written form, choose to postpone the execution of the punishment or decision on appeal, and if the individual is in custody, can additionally approve bail."

In this case, the matter was very serious and heinous in nature. The bail is granted, It was not maintainable in eyes of law.

❖ ISSUE 2: IS SUSPENSION OF CONVICTION MATTER OF RIGHT?

Suspension of conviction is a “remedy” and now not a “right” through the regulation. Although the Apex Court has widened the scope of Section 389, it has additionally over and over counseled that the appellate court docket must always maintain caution while workout its jurisdiction or imparting relief below this phase The Supreme Court also clarified that issuing an order granting

a stay of conviction is not typical but rather an exception to be utilized in rare instances, depending on the specifics of a case. Till now the Apex Court has now not specifically laid down any set of tips or checks to determine as to what's going to represent a healthy case for supplying a remedy under this segment. However, from its innumerable judgements in this concern count certain necessities can be listed down that can be taken into consideration by way of the courts at the same time as staying the order of conviction.

Section 389 of the Code of Criminal Procedure provides suspension of sentence as a statutory remedy. However, neither section 389 nor another section of Cr.P.C makes an explicit point out of suspension of conviction as a statutory remedy.⁶

JUDGEMENT

The Hon'ble Apex Court concluded that the objective of suspending a sentence after conviction is to postpone or defer the imposition of punishment. This aim cannot be fulfilled by keeping the accused person in custody; thus, as a logical outcome of delaying execution, the convict may be granted bail until further instructions are provided.

To suspend the main sentence pursuant to Section 389 of the Criminal Procedure Code, there must be unmistakable or flagrant evidence evident from the record, upon which the Court can tentatively determine that the conviction may not be upheld.

Additionally, as stated in the third section of the ruling, the trial court found each of the here respondents- Jai Shankar Chaudhary, Abhay Kumar, and Ram Babu—guilty of killing the petitioner's siblings, Manish Kumar, whilst clearing the other co-accused.⁷

As mentioned, the Bench further emphasizes in paragraph four that Respondents 1, 3, and 4 filed appealing to the Patna High Court of Judicature, accordingly, challenging the Trial Court's verdict and sentencing guidelines.⁸

⁶ Section 389 CrPC Archives, SCC Times (Oct. 17, 2022),

<https://www.scconline.com/blog/post/tag/section-389-crpc/>.

⁷ 2023 SCC Vol. 6 Part 1, SCC Times (June 1, 2023), https://www-sconline-com.cdn.ampproject.org/v/s/www.sconline.com/blog/post/2023/07/10/2023-scc-vol-6-part-1/amp/?amp_gsa=1&_js_v=a9&usqp=mq331AQIUAKwASCAAgM%3DAs

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RELATED CASE LAWS

- **Navjot Singh Sidhu v. State of Punjab (2007)**

In this instance, the appellant—a Member of Parliament (MP)—was found guilty of a crime when she was appointed. Upon conviction, he promptly resigned from his position, refraining from utilizing his office's benefits, demonstrating readiness to face consequences. Favorable evidence supported his case, and his resignation from the MP position was deemed an ethical act.

The court, recognizing the potential irreparable harm he could suffer if his conviction stood, suspended it pending appeal. Emphasizing the appellant's responsibility to highlight the potential consequences of non-suspension, the court held that such suspension power should be sparingly exercised, considering the case's specifics. It was clarified that suspension of conviction isn't obligatory in all appeal cases.⁹

- **Kamlapati vs. State of Assam, (2008)¹⁰** : In this instance, the Supreme Court determined that when granting bail under Section 389, the court must consider factors such as the severity of the offense, the potential sentence, the behavior of the accused, the possibility of tampering with evidence, and the likelihood of the accused absconding.
- **State of U.P. Vs. Amarmani Tripathi, (2005)** eight SCC 21: The Supreme Court discovered that even as granting bail under Section 389, the courtroom must balance the proper of the accused to liberty with the pursuits of society and the sufferers. It was held that bail must now not be granted merely due to the fact the trial is likely to take a long term.¹¹

⁸ Indian Criminal Procedure and Compilation of Case Law Index, Government Institutions <https://www.scribd.com/document/218338590/Indian-Criminal-Procedure-and-Compilation-of-Case-Law-Index>.

⁹ Times Of India, 1988 road rage case: Navjot Singh Sidhu gets one-year jail term, Times of India (May 20, 2022), https://www.google.com/amp/s/timesofindia.indiatimes.com/india/sentences-sidhu-to-a-years-jail-term-in-33-yr-old-case-admits-undue-indulgence-in-letting-him-off-with-rs-1k-fine-earlier/amp_articles/91673430.cms.

¹⁰ Kamalapati vs. State of Assam, (2008) 10 SCC 27

¹¹ 2023 SCC Vol. 6 Part 1, SCC Times (June 1, 2023), https://www.sconline.com.cdn.ampproject.org/v/s/www.sconline.com/blog/post/2023/07/10/2023-scc-vol-6-part-1/amp/?amp_gsa=1&js_v=a9&usqp=mq331AQIUAKwASCAAgM%3D.

CONCLUSION

The appellant, an MP, was convicted of a crime but resigned immediately without exploiting the benefits of their office, showing accountability. Favorable evidence supported their case. The court suspended the conviction pending appeal to prevent potential harm, stressing the need for discretion in such cases and clarifying that suspension isn't mandatory for all appeals.