

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S). _____ OF 2025
(ARISING FROM SLP(CRL) NO(S). 13146 OF 2025)**

SUNNY ALIAS SANJEEV

...APPELLANT

VERSUS

STATE OF HIMACHAL PRADESH

...RESPONDENT(S)

ORDER

1. Leave granted.
2. The present appeal arises from the judgment dated 22.04.2025 of the High Court of Himachal Pradesh at Shimla in Cr.MP No. 636 of 2025 in Criminal Appeal No. 101 of 2025. By the impugned judgment, the High Court suspended the substantive sentence imposed upon the appellant by the judgment of conviction and order of sentence dated 30.12.2024 passed by the learned Special Judge, Chamba, District Chamba, H.P., in CIS Registration No. 02/2020, for the offences punishable under Section 376(2) of the Indian Penal Code, 1860 (hereinafter referred to as, "IPC") and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as, "POCSO"), but directed that such suspension would operate subject, inter alia, to the appellant furnishing a personal bond of ₹50,000/- with

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one surety in the like amount and depositing the fine amount of ₹1,00,000/-. The challenge before us is confined to the stipulation requiring deposit of the fine amount.

3. The facts giving rise to the present appeal are as follows:

3.1 On 30.12.2024, the Special Judge convicted the appellant under Section 376(2) of the IPC and Section 4 of the POCSO and sentenced him to rigorous imprisonment for ten years and a fine of ₹1,00,000/-, with a default sentence of simple imprisonment for one year.

3.2 While the appeal was pending before the High Court (Criminal Appeal No. 101 of 2025), the appellant moved Cr.MP No. 636 of 2025 under Section 430 Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as, “BNSS”) for suspension of sentence. The High Court noted prior acquaintance and voluntary company of the prosecutrix with the appellant, and that the trial court had acquitted the appellant under Sections 363 and 366 of the IPC. It also recorded that the parties intended to marry and left home together on 10.11.2019. On age, the High Court found the documentary basis inconclusive, the certificates being drawn from the “pariwar” register, and the ossification test assessing 17–21 years with the

possibility of the prosecutrix being 18 years or more.

- 3.3 In these circumstances, by the impugned order dated 22.04.2025, the High Court directed that the substantive sentence shall remain suspended till disposal of the appeal, subject to the appellant furnishing a personal bond of ₹50,000/- with one surety in the like amount to the satisfaction of the trial court and depositing the fine amount of ₹1,00,000/-, if not already deposited. Upon compliance with these conditions, the appellant was to be released forthwith. The High Court further required the appellant to undertake to appear as and when directed and to surrender in the event of dismissal of the appeal.
4. The present appeal is confined against the condition requiring deposit of the fine amount as a pre-condition to release on suspension of sentence.
5. We have heard learned counsel for the parties. Section 430 of the BNSS empowers the appellate court to suspend the execution of the sentence pending appeal. A sentence may comprise imprisonment and fine. Therefore, the power to suspend extends to the fine component as well. While conditions may be imposed to secure the presence of the appellant and the progress of the appeal, we believe that they cannot be such as to render the order of suspension illusory for want of means.

A condition which is impossible to comply with, defeats the right of appeal.

6. In the present case, the High Court recorded that the appeal is not likely to be decided in the near future and that, as on 22.04.2025, the appellant had undergone custody of two years, seven months and two days. The appellant states before us that he is a person of limited means, has no independent income, and is unable to deposit ₹1,00,000/-. In these circumstances, insisting on an upfront deposit of ₹1,00,000/- as a condition for release would, in his case, defeat the suspension that the High Court otherwise granted. We are of the view that the legitimate concerns of justice can be secured by a personal bond, one surety, and appropriate behavioural conditions.
7. The appeal is accordingly allowed.
8. The impugned order dated 22.04.2025 is modified by deleting the requirement that the appellant deposit the fine amount of ₹1,00,000/- as a pre-condition for release. The suspension of the substantive sentence shall operate on the appellant furnishing a personal bond of ₹50,000/- with one surety in the like amount to the satisfaction of the trial court. The fine component shall remain in abeyance and shall abide the result of the appeal. The other conditions imposed by the High Court shall continue to operate, including the undertakings to appear as and when directed and to surrender in the

event of dismissal of the appeal. The appellant shall not leave India without prior permission of the appellate court and shall keep the trial court informed of his address and mobile number.

9. All observations made herein are confined to the adjudication under Section 430 of the BNSS and shall not influence the merits of the pending appeal.
10. All pending application(s), if any, shall stand disposed of.

..... **.J.**
[VIKRAM NATH]

..... **.J.**
[SANDEEP MEHTA]

NEW DELHI;
AUGUST 29, 2025.