

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

IA No.2 of 2025 For Stay Application
In
Criminal Appeal No. 44 of 2025

Akash Yadav

..... Appellant

Vs.

State of Uttarakhand

..... Respondent

Present:

Mr. Harshit Sanwal, Advocate for the appellant.

Mr. V.S. Rawat, A.G.A. for the State of Uttarakhand.

Hon'ble Ravindra Maithani, J. (Oral)

By means of the instant application, the appellant seeks stay/suspension of the judgment and order dated 20.01.2025 and 21.01.2025, passed in Sessions Trial No.199 of 2017, State Vs. Dr. Akash Yadav, by the court of Third Additional Sessions Judge, Rudrapur, District Udham Singh Nagar.

2. Heard learned counsel for the parties and perused the record.

3. In the instant appeal, the appellant has already been granted bail on 07.04.2025, when the Court had suspended the execution of sentence during the pendency of the appeal.

4. Learned counsel for the appellant submits that the appellant is a distinguished scientist with PhD in Biotechnology from the Indian Institute of Technology, Kharagpur, and for the last 3 years, he has been serving in the Indian Immunologicals Limited, a reputed vaccine manufacturer; he is Senior Manager, and is directly involved in the vaccine research and development, which is of critical importance to public health and national interest, but due to conviction, now the appellant has been restrained from further working on the vaccine programme. Therefore, the conviction of the appellant may be suspended

during the pendency of the appeal. He has referred to the judgment dated 11.06.2025, passed by this Court in IA No.3 of 2025 in Criminal Appeal No.493 of 2024, Raghuveer Singh Bhatia Vs. State of Uttarakhand. He also submits that, in fact, no case is made out against the appellant; the appellant and the deceased were married on 07.05.2015; as per prosecution case, itself, the deceased was taken by her brother on 04.07.2015; at the relevant time, the appellant was working in Hyderabad; the deceased was working in the Pantnagar University, where she joined her duties, and there she died on 14.12.2015. The appellant has been acquitted under Section 304-B IPC and Section 304 of the Dowry Prohibition Act, 1961, but has been convicted under Section 306 IPC, which, in fact, is not made out.

5. Learned State Counsel submits that in the suicide note, the deceased has recorded that for her death, the appellant would be responsible.

6. It is true that while granting bail to the appellant, at that stage, the appellant had not asked for suspension of the conviction. This Court had suspended the execution of sentence and enlarged the appellant on bail, but for staying conviction in appeal, the law is much settled. In the case of Rama Narang Vs. Ramesh Narang and Others, (1995) 2 SCC 513, the Hon'ble Supreme Court, in Para 19 of the judgment, observed as follows:-

“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 of (sic 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.”

(emphasis supplied)

7. In fact, this aspect has further been discussed by the Hon'ble Supreme Court in the case of Navjot Singh Sidhu Vs. State of Punjab and Another, (2007) 2 SCC 574. In Para 6 of the judgment, the legal principle has been laid down, which is as follows:-

“6. 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.”

8. What is stated in the instant case is that the appellant is a Scientist, who is into the research work of vaccine development, and due to his conviction, he is not allowed to join his duties, which, otherwise, is also greater issue of public health and national interest.

9. Having considered the entirety of facts, this Court is of the view that this is a fit case in which the order of conviction as well as execution of sentence, appealed against, should be suspended. Accordingly, the stay application deserves to be allowed.

10. The order of conviction as well as execution of sentence, appealed against, shall remain suspended during the pendency of this appeal.

11. The Stay Application, IA No.2 of 2025, stands disposed of, accordingly.

(Ravindra Maithani, J.)
11.07.2025

Ravi Bisht