

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
CRA No. 3832 of 2025**

(MANISH VIJAYVARGIYA Vs STATE OF M.P.)

Dated: 05.05.2025

Shri Raghvendra Singh Raghuvanshi - Advocate for the appellant.

Shri Prasanna Prasad - Advocate for the respondent/SPE, Lokayukt.

1. Heard on **I.A.No.5300/2025**, which is an application for suspension of sentence on behalf of the appellant under Section 430 of Bhartiya Nagrik Suraksha Sanhita, 2023.

2. The appellant has been convicted in Special Case No.7 of 2022, vide the impugned judgement dated 26.03.2025, under Section 7 of Prevention of Corruption Act, 1988 and sentenced to undergo 4 years of R.I. with fine of Rs. 2,000/- and default stipulations.

3. In brief, the facts of the case are the appellant-Manish Vijayvargiya was posted as a Reader/Assistant Grade-III in the office of the Sub Divisional Magistrate, Sailana, District -Ratlam and it is alleged that he demanded a bribe of Rs.5,000/- from the complainant-Harivallabh Bamniya. The demand was raised on account of grant of permission for digging the tube-well, and after certain negotiation, the amount was agreed at Rs.3,000/-, and consequently, he was caught red-handed along with the amount of Rs.3,000/-, which he obtained from the complainant.

4. Counsel for the appellant has vehemently argued before this Court and it is submitted that in the present case is marked by various illegalities, including that of competence of the Investigating Officer

as admittedly, the investigation has been carried out by the Officer holding the rank of Inspector only; whereas, as per the Prevention of Corruption Act, it has to be conducted by an Officer not below the rank of D.S.P. It is also submitted that the appellant has also proved his enmity with the complainant, which fact has not been properly considered by the trial Court. It is further submitted that the transcript of the conversation between the appellant and the complainant could not have been relied upon in the absence of the original voice record, as only the memory card has been proved. There is a defect of examining only one *panch* witness also; despite availability of the second *panch* witness, who was the independent witness.

5. Counsel for the appellant has also submitted that the prosecution has failed to place on record any application for permission to dig the tube-well, and in the absence of this very document, the entire story of the prosecution stands demolished.

6. Counsel for the appellant has also relied upon a recent decision of the Supreme Court in the case of ***Sohail Gohar vs. The State of Madhya Pradesh {Criminal Appeal No.2058 of 2025 (arising out of S.L.P. (Criminal) No.5013 of 2025) decided on 17.04.2025}*** wherein, the Supreme Court has deprecated the practice of rejecting the suspension applications of the accused persons when the final hearing of the appeals itself is not possible in the near future.

7. Counsel has also relied upon the decisions rendered by the Supreme Court in the cases of ***Bhagwan Rama Shinde Gosai and others vs. State of Gujarat*** reported as (1999) 4 SCC 421; and the other decisions rendered by this Court in the cases of ***Satyendra***

Kumar vs. State of M.P.; Rajeev Lochan Pandey vs. The State of M.P.

8. Counsel for the respondent, on the other hand has opposed the prayer and has drawn the attention of this Court to the transcript between the appellant and the complainant to submit that from the transcript (Exb.13) it can be clearly made out that the appellant had demanded the sum of Rs.5,000/- from the complainant and the matter was finally settled at Rs.3,000/-which was recovered from the front pocket of the appellant's pants and his hands, when washed with sodium carbonate solution, had also turned pink.

9. Counsel for the respondent has also drawn the attention of this Court to the various paragraphs of the impugned judgement to submit that the learned Judge of the trial Court has dealt with all the objections raised by the appellant in this appeal.

10. Heard. Having considered the rival submissions, perusal of the record, it is found that in his defence statement under Section 313 of the Cr.P.C., the appellant has denied the recovery of Rs.3,000/- from his possession, and has even denied the wearing of the pants, from which the tainted currency notes were recovered.

11. In such facts and circumstances of the case, when the learned Judge of the trial Court has dealt with all the objections raised by the appellant and after appreciating the entire evidence led by the parties, he has been found to be involved in the case this Court does not find it to be a fit case to grant bail at this stage, as this Court is also of the considered opinion that in corruption cases, specially the case in which a person has been caught red-handed, after his conviction by

the trial court, he cannot claim the suspension of jail sentence as a matter of right. In fact, there is a purpose behind introduction of s.389 of Cr.P.C. or s.430 of BNSS, which empowers to court to use its discretion while allowing or rejecting an application for suspension of sentence, and in appropriate cases the sentence is also required to be suspended.

12. In the present case, it is found that the date of incident is 01.01.2019, but prior to his conviction, the appellant has not spent even a single day in jail and that too despite being caught red-handed in a trap laid by the Lokayukt Police. This Court is also of the considered opinion that in such cases of blatant corruption in public domain, which have been found to be proved by a court of competent jurisdiction after appreciating the evidence adduced by the parties on record, merely because the appeal is not likely to be heard at an early date, the appellant cannot claim the suspension of sentence as a matter of right no sooner he files the appeal, as that would not only also send a wrong message to the public but would also encourage such accused persons who may believe that they can always get away even if they are caught red-handed while accepting the bribe.

13. Regarding court's duty in corruption cases, a recent decision of the Supreme Court in the case of ***Devinder Kumar Bansal v. State of Punjab*** reported as ***2025 SCC OnLine SC 488*** is worth mentioning here. The relevant paras of the same read as under:-

26. If even a fraction of what was the *vox pupuli* about the magnitude of corruption to be true, then it would not be far removed from the truth, that it is the rampant corruption indulged in with impunity by highly placed persons that has led to economic unrest in this country. If one is asked to name one sole factor that effectively arrested the progress of our

society to prosperity, undeniably it is corruption. If the society in a developing country faces a menace greater than even the one from the hired assassins to its law and order, then that is from the corrupt elements at the higher echelons of the Government and of the political parties.

27. In *Manoj Narula v. Union of India*, (2014) 9 SCC 1, this Court held that corruption erodes the fundamental tenets of the rule of law and quoted with approval its judgment in *Niranjan Hemchandra Sashittal v. State of Maharashtra*, (2013) 4 SCC 642 & held as under:

“16..... ‘26. It can be stated without any fear of contradiction that corruption is not to be judged by degree, for corruption mothers disorder, destroys societal will to progress, accelerates undeserved ambitions, kills the conscience, jettisons the glory of the institutions, paralyses the economic health of a country, corrodes the sense of civility and mars the marrows of governance.”

28. In *Subramanian Swamy v. Manmohan Singh*, (2012) 3 SCC 64, this Court held as under:—

“68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. Therefore, the duty of the Court is that any anti corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption....”

(Emphasis supplied)

14. This court is of the considered opinion that if the appellant's contention is accepted, then in each and every case, be it a case falling under the P.C. Act, or even a case u/s.302 of IPC, the suspension of sentence should be granted to the appellants no sooner the appeals are filed by them, because in each and every case, the final disposal of the appeal is likely to take sufficiently long time looking to the scarcity of the judges and the long list of pending appeals.

15. So far as the decision rendered by the Supreme Court in the

case of ***Sohail Gohar(supra)*** is concerned, indeed the Supreme Court has also reflected upon the huge pendency of the appeals against conviction in the High Court, but in that case, the appellant had already undergone sentence of more nine months; whereas his application for suspension of sentence was rejected by the High Court directing that he may renew prayer after undergoing half of the jail sentence, including the remission, whereas, in the present case the appellant has hardly suffered one month and twelve days.

16. So far as the other decisions cited by the counsel for the appellant, the same are of no avail to the appellant at this stage.

17. In such circumstances, at this stage, this Court does not find it to be a fit case to grant suspension of sentence.

18. Accordingly, ***I.A. No. I.A.No.5300/2025*** stands ***dismissed***.

(SUBODH ABHYANKAR)
JUDGE

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