2026 INSC 1265

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO.18004 OF 2026)

STATE OF KARNATAKA **...APPELLANT(S)**

Vs.

VINAY RAJASHEKHARAPPA KULKARNI & ANR. **...RESPONDENT(S)**

WITH

CRIMINAL APPEAL NOS. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NOS. 18551-18552/2026)

GURUNATHA GOUDA **...APPELLANT(S)**

Vs.

VINAY RAJASHEKHARAPPA KULKARNI & ANR. **...RESPONDENT(S)**

WITH

CRIMINAL APPEAL NO. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO. 18154/2026)

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Date: 2026.11.25 16:53:28 IST
Reason:

CENTRAL BUREAU OF INVESTIGATION (CBI) **...APPELLANT(S)**

Vs.

CHANNAKESHAVA B.
TINGARIKAR & ANR. ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO. 18840/2026)

GURUNATHA GOUDA ...APPELLANT(S)

Vs.

CHANDRASHEKAR INDI@
CHANDU MAMA & ANR. ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO. 18898/2026)

CENTRAL BUREAU OF
INVESTIGATION (CBI) ...APPELLANT(S)

Vs.

CHANDRASHEKAR INDI@
CHANDU MAMA & ANR. ...RESPONDENT(S)

AND

CRIMINAL APPEAL NO. OF 2026

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO. 20106/2026)

GURUNATHA GOUDA ...APPELLANT(S)

Vs.

DINESH M. & ORS. ...RESPONDENT(S)

J U D G M E N T

SHREE CHANDRASHEKHAR, J.

Leave granted. This batch of petitions by Special Leave to Appeal calls in question the order dated 31st July 2026 passed by a Division Bench of the High Court of Karnataka by which eight life convicts have been granted bail on certain conditions, by suspending the sentence awarded to them in Special CC. No. 565 of 2021 for committing murder of Yogesh Goudar in furtherance of a criminal conspiracy.

2. By a separate order dated 31st July 2026, Channakeshava B. Tingarikar who is convicted under section 201 r/w section 120B of the Indian Penal Code (in short, IPC), section 218 r/w section 120B IPC and section 120B r/w sections 201 and 218 IPC in Special CC. No. 565 of 2021 has been released on bail by suspending the sentence of rigorous imprisonment for 7 years with a fine of Rs. 30,000/- imposed upon him.

3. Vinay Rajashekharappa Kulkarni who is a member of the Karnataka State Legislative Assembly made a separate application *vide* I.A. No. 2 of 2026 in Criminal Appeal No. 764 of 2026 seeking

stay of his conviction in Special CC. No. 565 of 2021 which was also allowed by a separate order pronounced on 31st July 2026.

4. Vinay Rajashekharappa Kulkarni (A-15) is described by the prosecution as the mastermind and Chandrashekar Indi alias Chandu Mama (A-16) was identified as the person who provided core logistics, such as, country-made pistols. Dinesh M. (A-8), Sunil (A-10), Nazeer Ahmad (A-11), Shahnawaz (A-12), Nuthan (A-13) and Harshith (A-14) were the assailants who committed murder of Yogesh Goudar in the early morning of 15th June 2016. The convict-respondents, except A-19 who was the Investigating Officer in Crime No. 135 of 2016 which was initially registered by the Dharwad police, have suffered imprisonment for life under section 302 r/w section 120B IPC with different terms of imprisonment for the allied offences. They have further been convicted and sentenced to another term of life imprisonment under section 120B IPC.

5. The prosecution story, in a nutshell, is that Crime No. 135 of 2016 was registered by the Dharwad police on 15th June 2016 against unknown persons on the basis of a complaint lodged by the wife of Yogesh Goudar who was a Zila Panchayat member at Dharwad. On 15th June 2016, Yogesh Goudar was attacked with deadly weapons near the Uday Gym and Fitness Centre operated by him at Saptapura. In course of the investigation

by the Dharwad police the unknown persons who had allegedly assaulted Yogesh Goudar and caused his death surrendered in the Court and the crime weapons were shown recovered by the Investigating Officer. Accordingly, a chargesheet was forwarded on 9th September 2016 in the concerned Court against A1 to A6 under sections 143, 147, 148, 120B, 302 and 201 r/w section 149 of the IPC. They faced the trial in SC No.50 of 2017 in which 61 witnesses were examined and it was at the stage of recording the statement of accused persons under section 313 of the Code of Criminal Procedure that a number of petitions and applications came to be filed by Gurunatha Gouda and a few accused persons and some of the matters even reached this Court. It is, however, not necessary for the present purpose to refer to such petitions and applications except to indicate that following the Government order issued by the State of Karnataka on 6th September 2019 the Central Bureau of Investigation (in short, CBI) re-registered the crime for further investigation. Basavaraj Muttagi (A-1) was tendered pardon under section 306 of the Code of Criminal Procedure and he deposed in the Court as a prosecution witness as PW10. The statement of A-17 who made available country-made pistols to A-16 was also recorded under section 164 of the Code of Criminal Procedure and the trial Court tendered pardon to him. The first supplementary chargesheet submitted by the CBI arraigned A-1 to A-14 and the

second supplementary chargesheet named as accused A-15, A-16 and A-17, against whom additional charges under section 25 r/w sections 3, 5, 8 and 29 of the Arms Act were framed. As A-15 happened to be a member of the Legislative Assembly, the trial in S.C. No. 50 of 2017 was transferred to the Special Court, Bengaluru and re-registered as Special CC. No. 565 of 2021. Four more accused, out of whom two persons who were alleged to be the part of a criminal conspiracy to shield the real assailants and projected A-1 to A-6 as the culprits, were sent up for trial in the third supplementary chargesheet.

6. The CBI chargesheet states that there was a verbal altercation between A-15 and Yogesh Goudar in the Zila Panchayat meeting on 23rd April 2016. The said accused having a strong grudge against Yogesh Goudar hatched a plan with A-1 and A-16 to eliminate him. A-16 is said to have procured three country-made pistols through A-17 which were handed over to A-1. In the morning of 15th June 2016, A-7 to A-14 who were hired by A-1 came near Uday Gym and attacked Yogesh Goudar when he reached there. A-7 sprinkled chilli powder into the eyes of Yogesh Goudar and then all of them mounted a murderous attack on him causing as many as thirty-five wounds. This is the prosecution story that A-7 to A-14 was promised by A-15 that he would manage the police and ensure that

they are not arrested and put on trial. Accordingly, A-2 to A-6 were falsely shown as the assailants in the Dharwad trial. A-19 was the Investigating Officer who arrested A-1 to A-6, fabricated the recoveries and created false mahazars.

7. In course of the trial several witnesses out of 113 prosecution witnesses including the wife of the deceased turned hostile. She resiled from her previous statement recorded before the Dharwad Court and gave different statement as to motive for the crime. In Special CC. No.565 of 2021 the trial Judge relied on a number of witnesses and elaborated upon the evidence of hostile witnesses to evaluate its effect on the material aspects of the prosecution case. In a judgment running across Six hundred and Twenty-three pages of the paper book the trial Judge seems to have considered every aspect of the matter and convicted the accused-respondents. However, the High Court held that the failure to stay the conviction would result in irreversible consequences to A-15. The impugned order passed in I.A. No. 2 of 2026 does not say a word about the judgment of conviction qua A-15 as to how it is unsustainable in law. It only records the rival submissions, takes note of the judicial precedents[1] and holds as under:

[1] (a) State of A.P. v. V. Vasudeva Rao : (2004) 9 SCC. 319
(b) K.C. Sareen v. CBI, Chandigarh : (2001) 6 SCC. 584
(c) Rama Narang v. Ramesh Narang & Ors. : (1995) 2 SCC. 513
(d) State of Maharashtra v. Balakrishna Dattatrya Kumbhar : (2012) 12 SCC. 384

"15. In the case on hand, the FIR came to be registered against A-1 to A-6 on 15.06.2016. Upon completion of investigation, charge sheet was filed against the said accused for the offences punishable under Sections 143, 147, 148, 120B, 302 and 201 r/w Section 149 of IPC. The trial was conducted in S.C. No.50/2017 on the file of the IV Additional District and Sessions Judge, Dharwad, wherein the prosecution examined 61 witnesses. The statements of the accused under Section 313 Cr.P.C. were also recorded. Thereafter, pursuant to the order passed by the State Government, further investigation was entrusted to the CBI, which filed three supplementary charge sheets. The appellant was not shown as an accused in the first supplementary charge sheet. In the second supplementary charge sheet, he came to be arraigned as A-15, as a conspirator. The prosecution case against the appellant is principally founded on the testimony of PW10, the approver, who was originally arrayed as A-1 in the FIR registered by the Sub-Urban Police Station, Dharwad, as well as by the CBI. Since, the investigation conducted by the CBI is one of further investigation and not de novo or fresh investigation, the material collected during the earlier investigation as well as the evidence adduced and recorded during trial before the learned Sessions Court, Dharwad, forms part of the record. The same has to be appreciated in its entirety.

16. The entire case of the prosecution revolves around the evidence of PW10 namely the approver, against whom initial chargesheet was filed arraigning him as A-1, with a specific motive that he along with A-2 to A-6 committed the murder, due to a land dispute with the deceased. However, according to the CBI chargesheet, the murder took place on account of a quarrel that had taken place on 23.04.2016, between A-15 and deceased. However, the wife of the deceased, examined as PW50, has maintained that the incident is a result of pre-existing land dispute and prior enmity between PW10 and the deceased.

17. The evidentiary value and reliability of the testimony of PW10, the approver, are matters, which require detailed appreciation at the time of final hearing of the appeal. It is not in dispute that the appellant is a sitting Member of the Legislative Assembly. It is also not in dispute that, in the absence of an order staying the conviction, the appellant would incur disqualification under Section 8(3) of the Representation of the People Act, 1951. It is further not disputed that the appellant has no criminal antecedents.

18. Having regard to the peculiar facts and circumstances of the case and on hearing the rival contentions it is satisfied that the present case warrants exercise of the discretion to stay the operation of the order of conviction, without expressing any opinion on the merits of the rival contentions, which are required to be examined at the time of final hearing of the appeal. Failure to stay the operation of the order of conviction would result in irreversible consequences to the appellant.

(e) State of Punjab v. Navraj Singh : (2008) 11 SCC. 71

(f) Ravikant S. Patil v. Sarvabhouma S. Bagali : (2007) 1 SCC. 673

(g) Afjal Ansari v. State of Uttar Pradesh : (2024) 2 SCC. 187

Hence, the following:

ORDER

i. The Judgment of conviction dated 15.04.2026, passed by the Court of LXXXI Additional City Civil and Sessions Judge, Bengaluru (CC.H-82) in Spl. C.C.No.565/2021, as against the appellant/ accused No.15 shall be stayed, pending disposal of the appeal.
ii. I.A.No.2/2026 is allowed."

8. This order of stay of conviction of A-15 has been challenged by the State of Karnataka and Gurunatha Gouda, who is the brother of Yogesh Goudar.

9. A somewhat lengthy written submissions and compilation of judgments have been filed by the parties. However, the issue is short and does not require an elaborate discussion or in-depth analysis of the prosecution evidence. The central issue is whether the High Court has followed the well-settled principles for stay of conviction and suspending the sentence awarded to the respondents.

10. The learned senior counsels appearing for the parties made elaborate submissions both on legality of the order of stay of conviction as well as suspension of sentence. Their arguments due to very nature of such orders were overlapping to a large extent and repetitive at times. Mr. Suryaprakash V. Raju, the learned Additional Solicitor General and Mr. Mahesh Jethmalani, the learned senior counsel appearing for the brother of the deceased made virulent attacks on the impugned order of stay of conviction on manifold grounds. The learned ASG referred to several decisions, including in

"*K.C. Sareen v. CBI, Chandigarh*"[2], "*Omprakash Sahni v. Jai Shankar Choudhary & Anr.*"[3] and "*Dhan Jee Pandey v. State of Bihar*"[4], to assail the said order on the ground that stay of conviction is an exceptional remedy and it requires a higher threshold but the High Court over-looked this requirement in law. It is submitted that the High Court bestowed its attention to irrelevant considerations for stay of conviction and the impugned order does not deal with the objections raised by the appellant-State. The learned ASG further submitted that A-15 who is a public servant could not have been given the benefit of stay of conviction ignoring his criminal antecedents and moral conduct after he was granted bail in this case. Mr. Mahesh Jethmalani, the learned senior counsel took us to various judgments of this Court on stay of conviction and endeavoured to impress upon this Court that those judgments are clearly distinguishable on facts, inasmuch as, the offence was not so grave and the sentence imposed upon the convicts was seven years or less. Mr. Jethmalani would further submit that the learned Judges of the High Court have recorded erroneous findings on motive and non-consideration of the materials produced during the Dharwad trial. On the other hand, Mr. Ardhendhumauli Kumar Prasad, the learned senior counsel submitted that the impugned

[2] K.C. Sareen v. CBI, Chandigarh : (2001) 6 SCC. 584
[3] Omprakash Sahni v. Jai Shankar Choudhary & Anr. : (2023) 6 SCC 123
[4] Dhan Jee Pandey v. State of Bihar : (2026) INSC 349

order staying conviction of A-15 provides sufficient justification if it is read in continuity with the order suspending the sentence. This is a common ground urged on behalf of the convict-respondents that the testimony of PW10 cannot be the basis for conviction. PW50 who is the wife of the deceased and several other witnesses turned hostile and there was no other reliable evidence to convict the respondents. Dr. Abhishek Manu Singhvi, the learned senior counsel narrated the chain of events and submitted that A-15 who was not in picture for more than four years has been roped in due to political reasons. The investigation by the CBI was tainted and politically motivated and the trial Judge wrongly recorded a finding that motive for the crime originated from political rivalry between A-15 and the deceased.

11. In the beginning the High Court proceeded in the matter on a right note and declined to go deep into the testimony of PW10 who had turned approver. The High Court referred to delayed arraignment of A-15 in the second supplementary chargesheet, defective investigation, motive for the crime, non-consideration of the materials collected by the Dharwad police, etc. and held that such issues may be appreciated and decided at the final hearing of the pending criminal appeal. It then turned to enmity between the parties and the testimony of PW50 who stated in the cross-examination that her husband was killed due to land dispute. The

High Court finally held that A-15 who is a sitting MLA in the Karnataka Legislative Assembly would suffer irreversible consequences and incur disqualification under section 8(3) of the Representation of the People Act 1951, if the judgment of conviction passed against him in Special CC. No. 565 of 2021 was not stayed. However, the impugned order of stay of conviction does not deal with the contentions raised on behalf of the State and the CBI. It also does not speak of the factors which satisfy the higher threshold needed for stay of conviction.

12. A higher threshold would mean something more than a *prima facie* case. In simple words it refers to a palpable mistake in the judgment of conviction which renders it illegal. So the test is more rigorous than showing a good *prima facie* case. The word palpable is described in the Cambridge Dictionary to mean something so obvious that it can easily be seen or known, or (of a feeling) so strong that it seems as if it can be touched or physically felt. The Collins Dictionary says that something is described as palpable when it is obvious or intense or easily noticed. In the legal parlance a palpable mistake refers to a fatal or irreconcilable error apparent on the face of record. It should not require any long-drawn process of reasoning on such point. The mistake projected in the judgment should be of such nature which on the face of the record

does not admit two opinions. The mistake committed by the Court should strike at the very foundation of the judgment of conviction. It is well settled that the judgment of conviction can be stayed only in such rare and exceptional cases where the Court after examining all aspects of the matter including the ramifications of such an order is satisfied that the convict would suffer irreversible adverse consequences. A question then arises in what circumstances such consequences would follow. Naturally the consequence would be irreversible only if the judgment of conviction is liable to be set aside and not otherwise. It is not mere consequence of disqualification which is the determinative factor. The issue, therefore, turns on merits of the matter. The test is not that the convict has shown a good *prima facie* case in his favour. Rather, the convict is required to bring his case very near to certainty and for doing so he must project a mistake which without any rigorous exercise leads to a conclusion that he has an eminently winnable case. But no such consideration is seen in the impugned order staying conviction of A-15.

13. This is a misconception that the judgment of conviction should be stayed because the convict would be disqualified to be a member of the Legislative Assembly. If that is how the power of the Court to stay the judgment of conviction is to be interpreted then every convicted legislator would automatically become entitled to an

order staying the conviction. Such legislators then continue to be a member of the Legislative Assembly, would complete their term and shall be eligible to contest further elections, notwithstanding the mandatory statutory consequences. The decision in "*Afjal Ansari v. State of U.P.*"[5] has no application in this case and the observations made by this Court should be read in the context of the facts of the case. Mr. Mahesh Jethmalani, the learned senior counsel rightly indicated that the special feature of that case was that the convict was awarded a sentence of four years. The disqualification of a legislator upon his conviction and sentence for the crime committed by him can be one of the considerations for exercising the powers by the appellate Court but the possible disqualification of A-15 cannot be the primary ground to stay his conviction. The consequence that falls on the convict upon his conviction for committing a crime, such as, his disqualification under section 8(3) of the Representation of People Act, 1951 is a statutory consequence and that cannot be avoided by him on mere showing of an arguable case. The decision of the High Court is clearly perverse and, thus, liable to be set aside.

14. It is wrong to suggest that the prosecution case would fail if motive for the crime is not proved. The motive for committing a serious crime like murder is a very weak circumstance that may be

[5] Afjal Ansari v. State of U.P. : (2024) 2 SCC 187

taken note of by the Court in totality of the circumstances. Sometimes the Court may expect the prosecution to disclose motive for the crime but it is not necessary that the prosecution for establishing the charge of murder must prove the motive. A glaring mistake committed by the High Court in staying the conviction is that it takes note of statements of the wife of the deceased who was declared hostile at one stage as to motive for the crime. The learned ASG referred to her testimony to demonstrate that a part of her evidence supported the prosecution case. Even so, assuming that there is some inconsistency in the motive attributed to A-15 for hatching a conspiracy to kill Yogesh Goudar that is hardly a ground to interfere with the judgment of conviction.

15. The common order dated 31st July 2026 suspending the sentence awarded to A-8, A-10 to A-16 is equally susceptible in law. The High Court allowed their applications for suspension of sentence observing as under:

> "45. The foundation of the Indian Legal system lies in the core principle of 'presumption of innocence', this signifies that any individual accused of a criminal offence is entitled to be regarded as innocent until proven guilty through a lawful process. When the trial concludes and if the accused is convicted by the trial Court, the presumption of innocence comes to an end. However, the appeal remedy is still available, in which the convict/accused can seek suspension of sentence and grant of bail during the pendency of the appeal, which is a statutory remedy provided to the convict. The appellate Court has the power to direct the suspension of sentence pending the appeal and to release the appellant on bail, based on the nature of the offence and the facts and circumstances of each case. Further, an application seeking such a remedy is required to be

considered within the parameters laid down by the Hon'ble Apex Court in a catena of decisions. While undertaking such an exercise, the appellate Court cannot appreciate the evidence on record in detail. At the same time, the mere fact that the trial Court has convicted the accused for a serious offence cannot be the sole ground to reject an application seeking suspension of sentence and grant of bail. If such an approach is adopted, the relevant provision would become otiose and redundant. Acceptance of such proposition would mean that in every appeal against conviction for a serious charge, the prayer for suspension of sentence has to be rejected automatically, without considering the merits of the case, the evidence or the likelihood of success in appeal.

46. In Omprakash Sahni (supra) it is held that the appellate Court should not re-appreciate the evidence at the stage of Section 389 Cr.P.C., and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. However, while undertaking the exercise, what is to be looked into is something palpable, which is very apparent or gross on the face of the record.

47. In the case on hand, the genesis of the prosecution case lies in the complaint lodged by the wife of the deceased, based on which, a crime was registered. The initial investigation revealed the involvement of A-1 to A-6 in the commission of the murder of deceased by name Yogesh Goudar, a zilla panchayat member from Dharwad. The weapon of offence were seized at the instance of the said accused. The chargesheet was filed against A-1 to A-6 for offences punishable under Section 143, 147, 148, 120B, 302, 201 r/w Section 149 IPC. On committal of the case charges were framed and the said accused were tried before the Court of IV Additional District and Sessions Judge, Dharwad. PWs.1 to 61 were examined by the prosecution and the statements of the accused were also recorded under Section 313 Cr.P.C. It is at that stage, the brother of the deceased by name Gurunath Goudar filed writ petition seeking further investigation by the CBI. The writ petition was dismissed and he was given liberty to file an application under Section 319 Cr.P.C. The said order was confirmed by the Hon'ble Apex Court. The undertaking of CBI investigation, however, by an order of the State Government was approved by the Hon'ble Apex Court, though A-1, main accused used before the Dharwad Court, who turned approver, against whom the motive was attributed, challenged the said order of the State Government, according consent to the CBI to conduct further investigation. The CBI has filed first supplementary chargesheet, totally against 14 accused, including A-1, turned approver. His application seeking pardon was opposed by the CBI as it was bald and nothing mentioned indicating his role as principal or abettor in the commission of crime. The said application was rejected by the trial Court. The second application filed under Section 306 Cr.P.C., was allowed, but this Court in

Crl.P.No.12176/2024 set aside the order. Thereafter, A-1 filed his third application seeking pardon, for which consent was given by the CBI and the said application was allowed. A-1 was then examined as PW10 before the Special Court.

48. The entire case of the prosecution revolves around the evidence of PW10 namely the approver, against whom initial chargesheet was filed arraigning him as A-1, with a specific motive that he along with A-2 to A-6 committed the murder, due to a land dispute with the deceased. However, according to the CBI chargesheet, the murder took place on account of a quarrel that had taken place on 23.04.2016, between A-15 and deceased. The said A-15, according to the CBI chargesheet, is the main conspirator. However, the wife of the deceased, examined as PW50, though treated hostile, has maintained that the murder was on account of the land dispute between A-1/approver (PW10) and the deceased. The attention of the Court was drawn to the relevant material regarding the land dispute and the earlier threats given by A-1 (PW10), which this Court at this stage, is not inclined to elaborate, but taken into consideration only for the purpose to arrive at a *prima facie* satisfaction that the appellants/applicants have a good case on merits.

49. It is contended by the learned counsel appearing for appellants/applicants that the Special Court has completely ignored the evidence recorded by the learned Sessions Judge, Dharwad, wherein 61 prosecution witnesses were examined. It was contended that what is undertaken after the CBI took over the case, was only further investigation and not fresh or re-investigation, hence, the entire material collected during initial investigation and the evidence recorded by the learned Sessions Judge at Dharwad would not be wiped out. There is a substantial force in the said contention. A perusal of the impugned judgment, do not indicate the appreciation of the entire evidence on record i.e., including the appreciation of the evidence of all the witnesses recorded by the learned Sessions Judge, Dharwad, which is something palpable, very apparent and gross on the face of the record. The trial Court is required to appreciate the entire evidence and material on record, and the evidence not just favourable to the prosecution.

50. In fact, after framing of the charges by the Special Court, an application was filed by A-1 to A-6 under Section 231 of Cr.P.C., while disposing of the said application, it was specifically observed that the earlier materials placed before the IV Additional District and Sessions Judge, Dharwad in S.C.No.50/2017 will be available on record and the same will be appreciated along with the materials collected in the above case. This Court, while rejecting the petitions challenging the said order, culled out the above observations of the Special Court. Hence, the Special Court was required to appreciate the entire material collected during the

initial investigation as well as the evidence recorded before the learned Sessions Court, Dharwad."

16. The CBI and Gurunatha Gouda both have filed separate Special Leave Petitions to assail the common order dated 31st July 2026 granting the benefit of suspension of sentence to A-8, A-10 to A-14, A-15 and A-16.

17. The first and foremost argument in support of the common impugned order is that PW10 who is an approver is not a reliable witness and no other witness corroborated him on material particulars and that the conspiracy theory is not supported by any reliable evidence. It is again submitted by Dr. Singhvi that the prosecution case was tainted with political motives and there is no reliable evidence to convict A-15. The learned senior counsels for the convict-respondents emphasized that the trial Judge did not appreciate the materials on record in correct perspective and ignored the other materials produced in Dharwad trial. Mr. S. Nagamuthu, the learned senior counsel submitted that the procurement of weapons and the meeting between A-16 and A-1 are not proved by reliable evidence. The case against A-16 is based on circumstantial evidence and his identification by PW45 after several years without a prior identification parade cannot be relied upon to convict him. The learned senior counsel further submitted that A-16 was not

present at the place of occurrence and he was not among the accused persons who assaulted the deceased.

18. PW10 is an accused-turned-approver who deposed in the Court on behalf of the prosecution. Lord Reading, C.J.[6] wrote an opinion for the King's Bench that the uncorroborated evidence of an accomplice is admissible in law and the Court will not quash the conviction merely upon the ground that his testimony was not corroborated. Since the time of *Baskerville*[6] the law is well settled that the evidence of an accomplice in the Court is given the same weight as any other witness and this has been consistently followed in India. The decision of this Court in "*Rameshwar v. State of Rajasthan*"[7] lucidly explains the position in law, as under:

> **"19.** In my judgment, this branch of the law is the same as in England and I am of opinion that the lucid exposition of it given by Lord Reading, the Lord Chief Justice of England, in *R.* v. *Baskerville* [*R.* v. *Baskerville*, (1916) 2 KB 658 : 86 LJ KB 28 (CCA)] cannot be bettered. In that case, Baskerville had been convicted of having committed acts of gross indecency with the two boys. (There the boys were accomplices because they were freely consenting parties and there was no use of force.) The learned Chief Justice says at KB p. 663:
>
> > "There is no doubt that the uncorroborated evidence of an accomplice is admissible in law.... But it has long been a rule of practice at common law for the judge to warn the jury of the danger of convicting a prisoner on the uncorroborated testimony of an accomplice or accomplices, and, in the discretion of the Judge, to advise them not to convict upon such evidence; but the Judge should point out to the jury that it is within their legal province to convict upon such unconfirmed evidence....
> >
> > This rule of practice has become virtually equivalent to a rule of law, and since the Court of Criminal Appeal came into operation this Court has held that, in the absence of such a warning by the Judge, the conviction must be

[6] The King v. Baskerville : (1916) 2 K.B. 658

[7] Rameshwar v. State of Rajasthan : AIR 1952 SC 54: 1951 SCC 1213 : 1951 SCC OnLine SC 83

quashed.... If after the proper caution by the Judge the jury nevertheless convict the prisoner, this Court will not quash the conviction merely upon the ground that the accomplice's testimony was uncorroborated."

20. That, in my opinion, is exactly the law in India so far as accomplices are concerned and it is certainly not any higher in the case of sexual offences. The only clarification necessary for purposes of this country is where this class of offence is sometimes tried by a Judge without the aid of a jury. In these cases it is necessary that the Judge should give some indication in his judgment that he has had this rule of caution in mind and should proceed to give reasons for considering it unnecessary to require corroboration on the facts of the particular case before him and show why he considers it safe to convict without corroboration in that particular case. I am of opinion that the learned High Court Judges were wrong in thinking that they could not, as a matter of law, convict without corroboration."

19. The criticism of the testimony of PW10 is *prima facie* without any foundation in law. The testimony of an approver which is found truthful by the Court can be the basis for conviction. This is merely a rule of prudence that the Courts seek corroboration to the evidence of an accomplice. The purpose of seeking corroboration is to see whether the approver is speaking the truth. It seems that the evidence of PW10 is corroborated by several witnesses. There are witnesses who spoke about the motive, place of conspiracy and false projection of the land dispute as motive for the crime. PW4 and PW5 spoke about the verbal altercation on 23rd April 2016 between A-15 and the deceased. There are documentary evidence, medical evidence and forensic evidence which were duly proved in the Court and laid in evidence by the prosecution. PW45 identified A-16 and deposed in the Court about Sanky Tank meetings. There are clear allegations and supporting evidence laid against A-16 which are taken note of by the trial Judge. The piecemeal reference in the

judgment of conviction on the point of conspiracy is not sufficient to support the order of suspension of sentence.

20. Mr. Siddharth Dave, the learned senior counsel would submit that there is no direct evidence against A-8 and A-10 to A-14 that they were involved in the crime and their mere presence outside the Gym is not sufficient to convict them for causing death of Yogesh Goudar. But there is no legal requirement to prove a case by direct evidence. There is evidence of identification of a few convicts, specific role played by A-7 and others, etc. which are woven through a conspiracy theory. This is also not necessary that there should be a large number of proved circumstances to establish a charge. A circumstantial evidence may be so strong as when one finds a trout in the milk.[8]

21. *Prima facie* it appears that the materials collected and produced in the Dharwad trial were considered by the Special Judge. The charges framed by the Court were amended by incorporating additional charges, such as, 'secondly in charge No.1', 'thirdly in charge No.2', 'fourthly in charge No.3', etc. There were further charges framed *vide* seventhly, eighthly etc. The respondents had clear information of the allegations against them and they extensively cross-examined the prosecution witnesses. Many

[8] The phrase comes from an entry in Henry David Thoreau's journals

prosecution witnesses were cross-examined with reference to their statements recorded during the Dharwad trial. Just to indicate, there are specific references of Dharwad trial in the testimony of PW2 (paragraph nos. 47 and 48), PW6 (paragraph no. 4), PW30 (paragraph nos. 28, 29, 32 to 36, 38, 45, 47, 49, 50, 54 and 55), PW44 (paragraph nos. 11 and 12).

22. It is a wrong notion that pendency of the criminal appeal and its remote possibility of hearing in near future can be a ground to suspend the sentence in grave offences like murder, dacoity, rape, ransom etc. The long pendency of criminal appeals in the High Courts is a reality but this does not mean that a life convict is automatically entitled for suspension of sentence awarded to him. The hearing of the criminal appeals across the High Courts is primarily an issue which needs to be resolved on administrative side. As on 1st November 2026, as the National Judicial Data Grid reflects on its website, the total pendency of criminal appeals in the Karnataka High Court, both Single Bench and Division Bench, was 14301 which is on a comparatively lower side compared to other High Courts like Allahabad, Madhya Pradesh, Punjab & Haryana, Rajasthan and Patna. Without referring to pendency of criminal appeals, the working strength of the High Court and the number of Benches hearing criminal appeals, it is not correct to say that there

is no likelihood of hearing of the criminal appeals filed by the convict-respondents. It is also a matter of equality and liberty of hundreds of other convicts who are sentenced to life imprisonment and have served a substantial part of sentence. The High Court overlooked a pertinent fact that the judgment of conviction was rendered only on 15th April 2026 and the convict-respondents cannot be treated differently.

23. The order of suspension of sentence cannot be passed as a matter of course without a careful consideration of the relevant aspects. The judgment of conviction substantially dilutes the presumption of innocence and an order of suspension of sentence can be passed where the appellate Court forms an opinion that the convict has a fair chance of acquittal, that is to say, that he has a good *prima facie* case for acquittal. The word "*prima facie*" is a Latin expression which means at first sight or based on first impression. A question may arise whether there is any perceptible distinction between a good *prima facie* case and a palpable mistake in the judgment. There is surely a clear distinction between suspension of sentence and stay of conviction. The parameters for stay of conviction are different and it requires a higher threshold as compared to suspension of sentence. A thin line draws the distinction between the two but the test and yardstick to grant

suspension of sentence and stay of conviction would vary in wide amplitude. The appellate Court is not entitled to re-appreciate the evidence laid in the trial and the mistake in the judgment which may entitle the convict to seek acquittal should be gathered easily on a plain reading of the judgment of conviction. The High Court failed to pinpoint any serious error in the judgment which may form the basis for acquittal of the respondents in the ultimate analysis and has merely catalogued the submissions of the parties with a rider that such issues can be decided at the final hearings. The High Court is required to base its decision on a *prima facie* finding that the convict has a good arguable case with a fair chance of success. The benefit of suspension of sentence cannot be granted to the persons convicted for heinous crimes without any compelling reason demonstrable from the judgment of conviction.

24. The application seeking suspension of sentence filed by A-19 has been allowed on the ground that he is sentenced to fixed term of rigorous imprisonment and there is a practical impossibility of early disposal of CRL. A No. 775 of 2026 filed by him. The High Court summarized the important issues raised by A-19 in paragraph No. 19, referred to the decision in "*Bhagwan Rama Shinde Gosai and Others v. State of Gujarat*"[9] and held as under:

[9] Bhagwan Rama Shinde Gosai and Others v. State of Gujarat : (1999) 4 SCC 421

> "23. Having regard to the nature of the sentence imposed, the fact that the appellant was on bail throughout the trial without any allegation of misuse of liberty, the arguable questions raised in the appeal requiring detailed examination, and the practical impossibility of early disposal of the appeal having regard to the voluminous record, this Court is of the considered opinion that the appellant has made out a case for suspension of sentence and grant of bail. Further, this Court does not find any exceptional circumstance warranting denial of the benefit of suspension of sentence. The appellant has no criminal antecedents and further, the respondent has not placed any material to indicate that, if enlarged on bail, he is likely to abscond."

25. Mr. Rahul Kaushik, the learned senior counsel stressed on fixed term sentence awarded to A-19 and submitted that the order of suspension of sentence does not call for interference by this Court in view of the mitigating circumstances that A-19 was the Investigating Officer only for 22 days and he remained on bail throughout the trial. However, having regard to the discussions in preceding paragraphs, the argument based on a fixed-term sentence does not require serious consideration for suspension of sentence of A-19. The order granting suspension of sentence awarded to A-19 is clearly unsustainable in law. The High Court may be justified in suspending the sentence for a fixed term having regard to the circumstances in a case, such as, where the convict has already undergone a substantial part of the sentence or where the convict's role in the crime is not of serious nature. The Investigating Officer has a statutory duty to perform and he commits a serious crime if he is found involved in fabricating evidence to shield the real culprit. It is not always quantum of sentence which would be an overbearing consideration for grant of suspension of sentence to a convict. The gravity of the crime which

affects the administration of criminal justice system may at times take precedence over other considerations. The order passed by the High Court does not deal with the relevant considerations for granting bail to A-19 by suspending the sentence awarded to him. The said order has been passed on irrelevant considerations and is, therefore, liable for interference.

26. For the aforesaid reasons, the orders under challenge in these Criminal Appeals arising out of the captioned Special Leave Petitions are set aside. The bail bonds, if any, furnished by the convict-respondents shall stand cancelled and they shall surrender before the Court concerned within two weeks. These Criminal Appeals are allowed and the pending application, if any, shall stand disposed of.

……., J.
(PRASHANT KUMAR MISHRA)

……., J.
(SHREE CHANDRASHEKHAR)

NEW DELHI;
NOVEMBER 25, 2026.