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HIGH COURT OF JUDICATURE AT ALLAHABAD

Reserved on:15.10.2026

Delivered on: 29.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL REVISION No. - 3893 of 2026

Mohd Azam Khan

◆..Revisionist(s)

Versus

State of U.P. and 3 others

◆..Opposite Party(s)

Counsel for Revisionist(s) : Ankur Azad, Sadrul Islam Jafri, Saumitra Anand, Shashank Tiwari, Shashwat Anand, Sr. Advocate, Tripurari Pal

Counsel for Opposite Party(s) : G.A., Prasoon Kumar, Sharad Sharma, Veer Kumar, Vijay Vikram Singh

WITH

CRIMINAL REVISION No. - 3685 of 2026

Mohd Abdullah Azam Khan

◆..Revisionist(s)

Versus

State of Uttar Pradesh Through Principal Secetary Home and others

◆..Opposite Party(s)

Counsel for Revisionist(s) : Ankur Azad, Sadrul Islam Jafri, Saumitra Anand, Shashank Tiwari, Shashwat Anand, Syed Mohd. Zaid, Sr. Advocate, Tripurari Pal

Counsel for Opposite Party(s) : G.A., Prasoon Kumar, Sharad Sharma, Shivanshu Gupta, Vijay Vikram Singh

(A.F.R.)

Court No. - 74

HON'BLE SAMIT GOPAL, J.

Order(s) on Criminal Misc. Suspension of Sentence Application No. 02 of 2026 in Criminal Revision No.3893 of 2026 (Mohd Azam Khan and State of U.P. and 3 others) and Criminal Misc. Suspension of Sentence Application No.2. of 2026 in Criminal Revision No. 3685 of 2026 (Mohd Abdullah Azam Khan vs. State of U.P. and others).

1. Heard learned counsels for the parties.
2. Perused the records. The trial court records have been received and are tagged with the present files which have also been perused.
3. These two criminal revisions are connected together in compliance of the order dated 17.6.2026 passed by this Bench in Criminal Revision No.3685 of 2026, Mohd Abdullah Azam Khan vs. State of U.P. and others.
4. The trial court records were summoned vide order dated 09.06.2026 passed in Criminal Revision Defective No.1197 of 2026, Mohd Azam Khan vs. State of U.P. and others (subsequently which was allotted a regular number as Criminal Revision No.3893 of 2026).
5. Vide office report dated 14.7.2026 in Criminal Revision No.3893 of 2026, summoned trial court records were received which are tagged with the present file. Both the matters were placed before Hon'ble The Chief Justice for nomination by the office along with office report dated 10.08.2026 in compliance of the order dated 6.8.2026 passed by a co-ordinate Bench of this

Court. Vide order dated 10.08.2026 of Hon^{ble} The Chief Justice, the said matters have been nominated to this Bench. The matters were heard along with one other matter being Criminal Revision No.5514 of 2026, State of U.P. vs. Mohammad Azam Khan and another, which is also connected which is a revision of the State for enhancement of sentence.

6. The matters were heard on 14.10.2026 and the following order was passed by this Bench:-

1. List revised.

2. Heard Sri Abhishek Manu Singhvi, learned Senior Advocate, Sri N.I. Jafri, learned Senior Advocate, both assisted by Sri Shashwat Anand, Advocate, Sri Nizam Pasha, Advocate, Sri Arif Ali, Advocate, Sri Ankur Azad, Advocate, Sri Shashank Tiwari, Advocate, Sri Shrey, Advocate, Sri Sadrul Islam Jafri, Advocate, and Sri Saumitra Anand, Advocate, learned counsels appearing for both the revisionists, Sri Anoop Trivedi, learned Senior Advocate/Additional Advocate General, assisted by Sri Paritosh Kumar Malviya, learned A.G.A. appearing for the respondent nos. 1 and 3, Sri Sharad Sharma, learned counsel for the first informant/opposite party no.2 and Sri Veer Kumar, learned counsel for the opposite party no. 4.

3. Perused the records.

4. Two objections/counter affidavits on behalf of the first informant dated 03.08.2026 have been filed today in Court by learned counsel appearing for the first informant, which are taken on record.

5. Learned counsels appearing for the revisionists submit that they do not propose to file any response/counter affidavit to the same.

6. Reliance on the order passed in Criminal Revision No.159 of 2024, dated 24.5.2024 has been placed by learned counsels for the revisionists.

7. Arguments at length have been advanced by both of them.

8. Learned counsels for the State and the first informant submit that since arguments at length have been advanced on double jeopardy also relying on the same order, it would be relevant and necessary to get files of the said matter with these revisions for their arguments.

9. Connect with Criminal Revision No.159 of 2024(Dr. Tanzeen Fatima Vs. State of U.P.) and put up tomorrow i.e. 15.10.2026 along with connected matters.

Order(s) on Criminal Revision No. 5514 of 2026

10. Sri Anoop Trivedi, learned Senior Advocate/Additional Advocate General, assisted by Sri Paritosh Kumar Malviya, learned A.G.A. for the revisionist, Sri N.I. Jafri, learned Senior Advocate, assisted by Sri Saukat Ali and Sri Sadrul Islam Jafri, learned counsels appearing for both the respondents.

11. Perused the records.

12. Sri N.I. Jafri submits that vakalatnama of Sri Awaish Khan, Advocate, has been filed in the office yesterday i.e. 13.10.2026. He prays for three weeks time to file counter affidavit to the same. Prayer is allowed.

7. Subsequently the matters were heard on 15.10.2026 and the following order was passed by this Bench:

1. List revised.

2. Heard Sri Abhishek Manu Singhvi, learned Senior Advocate (through video conferencing), Sri N.I. Jafri, learned Senior Advocate, assisted by Sri Shashwat Anand, Advocate, Sri Tripurari Pal, Advocate, Sri Sadrul Islam Jafri, Advocate, Sri Ankur Azad, Advocate, learned counsels appearing for both the revisionists, Sri Paritosh Kumar Malviya, learned A.G.A. appearing for the respondent nos. 1 and 3, Sri Sharad Sharma, learned counsel for the first informant/opposite party no.2 and Sri Vijay Vikram Singh, learned counsel for the opposite party no. 4 who all are present in Court.

3. Perused the records. The trial court records have been received which have also been perused.

4. Arguments of all the learned counsels in criminal misc. applications for suspension of sentence concluded.

5. Judgement reserved.

8. On 14.10.2026 learned counsels for the revisionists/accused submitted that prayer for suspension of and also suspension of conviction has been filed which may be considered. This Court repeatedly gave them option to argue the matter finally since trial court records have been received to which they submitted that the applications for suspension of sentence and suspension of conviction be considered at the first instance and the matter should not be taken up for final hearing.

9. At that instance learned counsel for the State and learned counsels for the private respondents submitted that they are prepared for final hearing of the matter and the matter be heard finally and decided.

10. Despite giving option repeatedly to learned counsels for the revisionists/accused to argue the matter finally, they refused to do so but pressed that their applications for suspension of sentence and suspension of conviction be heard and decided at the first instance.

11. These two criminal revisions have been filed before this Court against the judgment and order dated 17.11.2025 passed by the Special Judge (MP/MLA)/Court of First Additional Chief Judicial Magistrate, Rampur in Criminal Case No. 311 of 2022, State of U.P. vs. Mohd. Azam Khan and others, arising out of Case Crime No.980 of 2019, whereby the accused/revisionists Mohd. Azam Khan and Mohd. Abdullah Azam Khan, were convicted and sentenced for offences under Sections 120B I.P.C. to 1 year simple imprisonment, fine of Rs. 10,000/- and in default of payment of fine to 1 month additional simple imprisonment, under Section 420 I.P.C. to 3 years simple imprisonment, fine of Rs. 10,000/- and in default of payment of fine to 3 months simple imprisonment, under Section 467 I.P.C. to 7 years simple imprisonment, fine of Rs. 10,000/- and in default of payment of fine to 6 months simple imprisonment, under Section 468 I.P.C. to 3 years simple imprisonment, fine of Rs. 10,000/- and in default of payment of fine to 3 months simple imprisonment and under Section 471 I.P.C. to 2 years simple imprisonment, fine of Rs. 10,000/- and in default of payment of fine to 3 months simple imprisonment. Sentences have been ordered to run concurrently. It is further ordered that the period already undergone by the accused shall be set off against the sentences as awarded and against the judgment and order dated 20.4.2026 passed in Criminal Appeal Nos. 05/2025 and 06/2025 and further the judgment and order dated 23.5.2026 passed in Criminal Appeal No.07 of 2025 and Criminal Revision No.23 of 2026, whereby the appellate court being the Court of Special Judge (MP/MLA)/Additional Sessions Judge, Court No. 2, Rampur enhanced the sentences awarded to Mohd. Azam Khan, under Section 420 I.P.C. of 3 years simple imprisonment and

a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 7 years rigorous imprisonment and fine of Rs.1 lakh and in default of payment of fine to 9 months simple imprisonment, under Section 467 I.P.C. of 7 years simple imprisonment and a fine of Rs. 10,000/- and in default of payment of fine to 6 months simple imprisonment to 10 years rigorous imprisonment and a fine of Rs.2 lakh and in default of payment of fine to 1 year simple imprisonment, under Section 468 I.P.C. of 3 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 7 years rigorous imprisonment and a fine of Rs.1 lakh and in default of payment of fine to 9 months simple imprisonment, under Section 471 I.P.C. of 2 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 3 years simple imprisonment and a fine of Rs.50,000/- and under Section 120B I.P.C. of 1 year simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 1 month simple imprisonment to 3 years simple imprisonment and a fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment, and further conviction and sentence of Mohd. Abdullah Azam Khan under Section 420 I.P.C. of 3 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 5 years rigorous imprisonment and a fine of Rs.75,000/- and in default of payment of fine to 6 months simple imprisonment, under Section 467 I.P.C. of 7 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 6 months simple imprisonment to 7 years rigorous imprisonment and a fine of Rs.1 lakh and in default of payment of fine to 6 months simple imprisonment, under Section 468 I.P.C. of 3 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 5 years rigorous imprisonment and a fine of Rs.75,000/- and in default of payment of fine to 6 months simple imprisonment, under Section 471 I.P.C. of 2 years simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment to 02 years simple imprisonment and a fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment and under Section 120B I.P.C. of 01 year simple imprisonment and a fine of Rs.10,000/- and in default of payment of fine to 1 month simple imprisonment to 2 years simple imprisonment and a fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment. All the sentences were ordered to run concurrently.

12. The facts of the case are that a First Information Report dated 6.12.2019 was lodged by Akash Saxena, against the revisionists on the basis of a typed application given to the Superintendent of Police, District Rampur, alleging therein that Mohd. Abdullah Azam Khan is a resident of Rampur. He has been issued a PAN Card bearing No.DFOPK614K by Income Tax Department in which his date of birth is mentioned as 01.01.1993 which is correct as per his educational certificate of High School. On the basis of said PAN Card he has a bank account in State Bank of India bearing No.343413XXXXXX and the account is being maintained and operated on the basis of said PAN Card. Mohd. Abdullah Azam Khan has filed his income tax return prior to filing of his nomination on the basis of the said PAN Card. He has filed his papers for nomination from 34-Swar Constituency for membership of Legislative Assembly from Samajwadi Party on 24.01.2017 before the District Election Officer, Rampur. In the said papers of nomination Mohd. Abdullah Azam Khan forged his PAN Card No. in the details of bank account no.343413XXXXXX in the column of PAN Card No. DFOPK614K and mentioned PAN Card No.DWAPK7513R and submitted the photocopy of passbook whereas at the time of nomination the said bank accounts was not linked with it and were being operated with the PAN Card No.DWAPK7513R. Mohd. Abdullah Azam Khan in a planned conspiracy with his father Mohd. Azam Khan at the time of nomination, in order to conceal his uneligibility prepared forged documents and presented them and got PAN Card No.DWAPK7513R with date of birth 30.09.1990 prepared and in the nomination form to overcome the eligibility issue due to age constraint in order to gain undue benefit used it. The present matter is of offence under Sections 420, 467, 468, 471, 120B I.P.C. Under the Constitution the Post of President, Prime Minister, Chief Justice of India, etc. and for membership of Lok Sabha and Vidhan Sabha, criteria of qualification of age is binding which cannot be overcome by any method but Mohd. Abdullah Azam Khan and Mohd. Azam Khan by forging documents presented papers for nomination which were accepted and membership of Vidhan Sabha was procured. Thus for making different PAN Card and using it to forge bank passbook and gaining undue advantage, report be lodged under the appropriate sections and legal action be taken.

13. The matter then went up for trial and the revisionists were convicted by the trial court concerned as stated above. Against the said judgement and order of conviction the accused Mohd. Abdullah Azam Khan preferred a Criminal Appeal No.05/2025, Mohd. Abdulah Azam Khan vs. State of U.P. and others, and, Mohd. Azam Khan preferred a Criminal Appeal No.06/2025, Mohd. Azam Khan vs. State of U.P. and others. The State of U.P. preferred an Appeal for enhancement of sentence being Criminal Appeal No.07 of 2025, State of U.P. vs. Mohd. Azam Khan and another and a Criminal Revision No.23 of 2026, Nawab Kazim Khan@Naved Mian vs. Mohd. Abdullah Azam Khan and others, was filed for enhancement. The appeals of the accused were dismissed whereas the appeal of the State and criminal revision were allowed and conviction and the sentences as ordered by the trial court, were modified and enhanced as stated above.

14. These two criminal revisions thus have been filed for challenge to the judgement and order of the trial court and that of the appellate court by the accused and one criminal revision has been filed by the State for further enhancement of sentence. As of now the said two revisions filed by the accused/convicts have been taken up on which the applications for suspension of sentence and suspension of conviction have been pressed.

15. Learned counsels for the accused/revisionists submitted that no offence whatsoever is made. It is submitted that no person has been defrauded by the act of the accused. It is submitted that no person has been deceived by the accused. It is submitted that the present case is a case of double jeopardy inasmuch as the said document was stated to have been used for obtaining passport by the accused/revisionist Mohd. Abdullah Azam Khan but he has been acquitted of the charges levelled against him in the said case. It is submitted that the present revision stands a fair chance of success. It is further submitted that the revisionist Mohd. Azam Khan is in jail in the present matter since the last 4 years 1 month and 9 days as per custody certificate dated 29.5.2026 including the period of remission. It is submitted that maximum sentence awarded to him by the appellate court is 10 years rigorous imprisonment. It is further submitted that the revisionist Mohd. Abdullah Azam Khan is in jail in the present matter since the last 3 years 6 months and 13 days of the total sentence including the period of remission as per custody certificate dated 30.5.2026. It is submitted that maximum imprisonment awarded to him by the

appellate court is 07 years rigorous imprisonment. It is further submitted that the accused/revisionist Mohd. Azam Khan is aged about 74 years. While placing paragraph no. 47 of the affidavit in support of application for stay of conviction and sentence/bail application, it is submitted that there were total 93 criminal cases against the revisionist/Mohd. Azam Khan in which he has been acquitted in four cases and in the other cases he is on bail. It is submitted further while placing paragraph no. 48 of the said affidavit that there were 19 other cases which have ended and he has not been convicted in the same. With regards to the accused/revisionist Mohd. Abdullah Azam Khan while placing paragraph no. 51 of the affidavit in support of his application for stay of conviction and sentence it is submitted that he was involved in 46 criminal cases out of which in two cases he has been acquitted whereas one case is the present case and in other cases he is on bail. In one case his appeal is pending before the High Court. It is submitted that in one case he has been convicted for 2 years by the trial court and his appeal is pending in which he has been granted bail. To buttress the submissions of double jeopardy, learned counsels for the accused/revisionists have relied upon the judgement of the Apex Court in the cases of Prem Chandra Singh vs. State of U.P.: (2020) 3 SCC 54, para-10,11 and 30, T.P. Gopalakrishnan vs. State of Kerala: (2022)14 SCC 323, para-24, 25, 27 and 31, 32, 40, 41, 42, 43, 44, P. Manikandan vs. Central Bureau of Investigation: 2024 SCC OnLine 3808, para-24, 30(c), 31, 32, 33, 35 and it is submitted that if the substratum of 02 F.I.Rs. are the same and the accused has been acquitted then he cannot be prosecuted for the other incident.

16. To buttress the submission with regards to suspension of sentence learned counsels for the revisionists/accused have relied upon the judgement of the Apex Court in the cases of Omprakash Sahni vs. Jai Shankar Chaudhary: (2023) 6 SCC 123, para-22, 25, 27, 29, 30, 33, 34, Asif alias Pasha vs. State of U.P.: 2025 SCC OnLine SC 1644, para-2, 10 to 12, 15 to 17, 19 to 23 and it is submitted that the present case entails a punishment for a period of fixed term of sentence and looking to the period already undergone by the accused/revisionists the prayer for suspension of sentence be considered and they be granted bail.

17. With regards to the prayer for stay of conviction learned counsels of for the accused/revisionists have relied upon the judgment of the Apex Court in the case of Navjot Singh Sidhu vs. State of Punjab: (2007) 2 SCC 574, para-6, Naranbhai Bhikhabhai Kachchadia vs. State of Gujarat: (2024) 2 SCC 239, para-9, Lok Prahari vs. Election Commission of India: (2018) 18 SCC 114, para-16, Rahul Gandhi vs. Purnesh Ishwarbhai Modi: (2024) 2 SCC 595, para-5, 9, 10, Afjal Ansari vs. State of U.P.: (2024) 2 SCC 187, para-15, 20, 21, 22, 27 and it is submitted that consideration for grant of stay of conviction should be considered leniently as future of the accused/revisionists is hanging due to conviction and there shall be a disqualification attached to them due to the said conviction and thus, their future prospects would be impaired which would cause an irreparable loss as they would not be able to contest the forthcoming Legislative Assembly Elections of the State.

18. It is submitted that thus looking to the said facts, the prayer for suspension of sentence/bail and also the prayer for suspension of conviction be allowed and the accused/revisionists be directed to be released on bail and conviction as awarded be stayed during pendency of the present appeal.

19. Per contra, learned counsel for the State of U.P. appearing for the respondent nos. 1 and 3, Sri Sharad Sharma, learned counsel for the first informant/opposite party no.2 and Sri Vijay Vikram Singh, learned counsel for the opposite party no. 4, opposed the present applications for suspension of sentence/bail and the prayer for suspension of conviction vehemently and submitted that the revisionist Mohd. Abdullah Azam Khan made forged documents which was a second PAN Card just in order to get his date of birth changed therein so as to get the benefit of being competent to contest Vidhan Sabha Elections and thus on the strength of the said document filed his papers for nomination for elections and used the same. It is submitted that the prosecution has proved its case beyond reasonable doubt against the accused/revisionists and then the trial court convicted them and the appellate court finding the sentence to be inappropriate, enhanced it. It is submitted that second date of birth was declared on Oath by Mohd. Abdullah Azam Khan and Mohd. Azam Khan in their affidavits filed at the time of nomination and the evidence brought on record clearly shows that they had signed the said affidavits after which it was Notarized by Advocate Notary and then presented before the District Elections Officer with the papers of nomination. It is submitted that thus presence of the accused and their active involvement in the matter is shown from the evidence on record before the trial court. It is submitted that since Mohd. Azam Khan was a minister in the State of U.P. he had influenced the agencies of which he had control as being minister and thus passport, PAN Card and birth certificate were modified and the date of birth was changed therein but the same could not be changed in the educational records of Mohd. Abdullah Azam Khan. It is submitted that in so far as the submission of double jeopardy is concerned, the same can only be appreciated at the time of final arguments of the matter after which a finding on the same can be given but no finding on the same can be returned at this stage while considering an application for suspension of sentence and suspension of conviction. Reliance has been placed on the judgements of the Apex Court in the case of State (N.C.T. of Delhi) vs. Navjot Sandhu @Afsan Guru : 2005 SCC OnLine SC 1132, para-12(xx) and it is submitted that judgement in the case of Ajay Agarwal vs. Union of India: 1993(3) SCC 609, has been considered in para- 12(xx) wherein it is held that conspiracy to commit a crime itself is punishable as a substantive offence and every individual offence committed pursuant to the conspiracy is separate and distinct offence to which individual offenders are liable to punishment, independent of the conspiracy. Further the judgement of the Apex Court in the case of Yakub Abdul Razk Memon vs. State of Maharashtra through C.B.I., Bombay : 2013(13) SCC 1, para- 60, has been placed before the Court to buttress the arguments regarding criminal conspiracy. Further the judgement of the Apex Court in the case of Afjal Ansari vs. State of U.P. : (2024) 2 SCC 187, has been placed to submit that for consideration of suspension of conviction in the context of disqualification under the Representation of People Act, 1951, assessment has to be done by balancing the costs as asserted of prejudice against public interest. It is submitted that it does not create an automatic entitlement to suspension of conviction merely because statutory disqualification follows from a conviction. It is submitted that suspension of conviction is an exception and not a rule. It is submitted that the prayer for suspension of sentence/bail and also the prayer for suspension of conviction be thus dismissed.

20. After having heard learned counsels for the parties and perusing the records, it is evident that the accused/revisionists have been convicted by the trial court. Sentences were enhanced by the appellate court in an appeal by the State and the

revision therein. The details of conviction as recorded by the trial court and enhanced by the appellate court are as under:-
Sl. No. Section(s) Sentence awarded by the trial court to both accused/revisionists. Sentence awarded (after enhancement) to Mohd. Azam Khan by the appellate court. Sentence awarded (after enhancement) to Mohd. Abdullah Azam Khan by the appellate court.

1. 120B I.P.C. 1 year simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 1 month simple imprisonment. 3 years simple imprisonment and fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment. 2 years simple imprisonment and fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment.
2. 420 I.P.C. 3 years simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment. 7 years rigorous imprisonment and fine of Rs.1 lakh and in default of payment of fine to 9 months simple imprisonment. 5 years rigorous imprisonment and fine of Rs.75,000/- and in default of payment of fine to 6 months simple imprisonment.
3. 467 I.P.C. 7 years simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 6 months simple imprisonment. 10 years rigorous imprisonment and fine of Rs.2 lakh and in default of payment of fine to 1 year simple imprisonment. 7 years rigorous imprisonment and fine of Rs.1 lakh and in default of payment of fine to 6 months simple imprisonment.
4. 468 I.P.C. 3 years simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment. 7 years rigorous imprisonment and fine of Rs.1 lakh and in default of payment of fine to 9 months simple imprisonment. 5 years rigorous imprisonment and fine of Rs.75,000/- and in default of payment of fine to 6 months simple imprisonment.
5. 471 I.P.C. 2 years simple imprisonment and fine of Rs.10,000/- and in default of payment of fine to 3 months simple imprisonment. 3 years simple imprisonment and fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment. 2 years simple imprisonment and fine of Rs.50,000/- and in default of payment of fine to 3 months simple imprisonment.

6. Further directions Sentences to run concurrently.

Set off of period already undergone given. Sentences to run concurrently. Sentences to run concurrently.

These two present revision have thus been filed challenging the said judgment and orders. In so far as the prayer for stay of sentence/bail is concerned, the facts which is evident, is that the accused/revisionist- Mohd. Azam Khan has undergone a period of 4 years 1 month and 9 days as per custody certificate dated 29.5.2026 including the period of remission and the accused/revisionist-Mohd. Abdullah Azam Khan has undergone a period of 3 years 6 months and 13 days of the total sentence including the period of remission as per custody certificate dated 30.5.2026.

21. These revisions are pending decision before this Court. The trial court records have been received. The present case is a case of fixed term of sentence. Maximum punishment awarded to revisionist/accused Mohd. Azam Khan is 10 years rigorous imprisonment and to the revisionist/accused Mohd. Abdullah Azam Khan is 7 years rigorous imprisonment.

22. Looking to the nature of occurrence, period of detention of the accused/revisionists, the fact that the case in hand is for a fixed term of sentence, the present case is a fit case where the accused/revisionists- Mohd. Azam Khan and Mohd. Abdullah Azam Khan be enlarged on bail.

23. Let both the revisionists - Mohd. Azam Khan and Mohd. Abdullah Azam Khan be released on bail in the aforesaid case on their furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned.

24. The half of amount of fine, as imposed by the appellate Court, shall be deposited by the accused/revisionists forthwith.

25. The prayer for suspension of sentence/bail is allowed.

26. On acceptance of bail bonds and personal bonds, the trial court concerned shall transmit photostat copies thereof to this Court for being kept on the record.

27. In so far as the prayer for stay of conviction is concerned the law on the same is trite. While considering the prayer for suspension of conviction, the criminal antecedents, gravity of offences, wider social impact have to be considered. This Court in the case of Vikram Singh Saini v. State of U.P. : 2022 SCC OnLine All 773 while considering the prayer for suspension of conviction on the ground that the accused therein would suffer disqualification under the Representation of People Act, 1951, held as under:-

❖10. The grounds as taken do not in any manner appeal to the Court. There is full-fledged trial conducted after which the appellant has been convicted. The trial court has found the evidence to be trustworthy and reliable.

11. Section 8 of the Representation of People Act, 1951 (hereinafter referred to as the ❖Act, 1951❖) reads as under:

❖8. Disqualification on conviction for certain offences.❖(1) A person convicted of an offence punishable under❖

(a) Section 153-A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or Section 171-E (offence of bribery) or Section 171-F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of Section 376 or Section 376-A or Section 376-B or Section 376-C or Section 376-D (offences relating to rape) or Section 498-A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or subsection (3) of Section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Penal Code, 1860; or

(b) the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of

❖untouchability❖, and for the enforcement of any disability arising therefrom; or

(c) Section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or

(d) Sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or

(e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or
 (f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or
 (g) Section 3 (offence of committing terrorist acts) or Section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
 (h) Section 7 (offence of contravention of the provisions of Sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
 (i) Section 125 (offence of promoting enmity between classes in connection with the election) or Section 135 (offence of removal of ballot papers from polling stations) or Section 135-A (offence of booth capturing) or clause (a) of sub-section (2) of Section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act,
 (j) Section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991,
 (k) Section 2 (offence of insulting the Indian National Flag or the Constitution of India) or Section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971)
 (l) the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or
 (m) the Prevention of Corruption Act, 1988 (49 of 1988); or
 (n) the Prevention of Terrorism Act, 2002 (15 of 2002); shall be disqualified, where the convicted person is sentenced to
 (i) only fine, for a period of six years from the date of such conviction;
 (ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

(2) A person convicted for the contravention of

(a) any law providing for the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

(c) any provisions of the Dowry Prohibition Act, [1961 (28 of 1961)]; and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or subsection (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

12. The disqualification of a person under sub-sections (1), (2) and (3) of Section 8 of the Act, 1951 is due to a conviction for one of the offences as mentioned in the section.

13. In the present case the maximum punishment awarded to the appellant-accused is of two years imprisonment which results in his disqualification as per Section 8 (3) of the Act, 1951.

14. The law with regards to suspension of conviction is well settled. The Apex Court has ruled, reiterated and discussed the same in a catena of judgments. Some of them are:

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

b) Navjot Singh Sidhu v. State of Punjab : (2007) 2 SCC 574,

c) Shyam Narain Pandey v. State of Uttar Pradesh : (2014) 8 SCC 909 and

d) Lok Prahari v. Election Commission of India : (2018) 18 SCC 114.

15. In the case of Ravikant S. Patil (supra) it was held that an order granting stay of conviction is not the rule but is an exception to be resorted to in rare cases. It has been held in para 15 as follows:

15. It deserves to be clarified that an order granting stay of conviction is not the rule but is an exception to be resorted to in rare cases depending upon the facts of a case. Where the execution of the sentence is stayed, the conviction continues to operate. But where the conviction itself is stayed, the effect is that the conviction will not be operative from the date of stay. An order of stay, of course, does not render the conviction non-existent, but only non-operative. Be that as it may. Insofar as the present case is concerned, an application was filed specifically seeking stay of the order of conviction specifying the consequences if conviction was not stayed, that is, the appellant would incur disqualification to contest the election. The High Court after considering the special reason, granted the order staying the conviction. As the conviction itself is stayed in contrast to a stay of execution of the sentence, it is not possible to accept the contention of the respondent that the disqualification arising out of conviction continues to operate even after stay of conviction.

(emphasis supplied)

16. Further relying in the cases of Gajanan, K.C. Sareen and Atar Singh the Apex Court reiterated the same proposition in para 16.4 which is as under:

16.4. Lastly, reference may also be made to the decision of this Court in State of Maharashtra v. Gajanan : (2003) 12 SCC 432. In the said case, relying on K.C. Sareen : (2001) 6 SCC 584 it was reiterated that only in exceptional cases, the court should exercise the power of stay of conviction. Since the High Court in the said case had not pointed out any exceptional fact or looked into the ramification of keeping such conviction in abeyance, the order of the High Court staying the conviction was set aside. In the cited case of Union of India v. Atar Singh : (2003) 12 SCC 434 it was noted that the High Court had mechanically passed the order by suspending the conviction and the discretion ought not to have been exercised by the High Court by passing such an order suspending the conviction.

17. Further the Apex Court in the case of Navjot Singh Sidhu (supra) has held that grant of stay of conviction can be resorted to in rare cases. In Para 6 it has been held 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. ♦
(emphasis supplied)

18. The Apex Court in the case of Shyam Narain Pandey (supra) has while referring to the case of Balakrishna Dattatrya Kumbhar held that loss of public employment/promotion prospects are not at all a relevant consideration for suspension of conviction. Para 9 and 11 of the judgment reads as follows:

♦9. In State of Maharashtra v. Balakrishna Dattatrya Kumbhar : (2012) 12 SCC 384 referring also to the two decisions cited above, it has been held at para 15 that : (SCC p. 389)

♦15. ♦ the appellate court in an exceptional case, may put the conviction in abeyance along with the sentence, but such power must be exercised with great circumspection and caution, for the purpose of which, the applicant must satisfy the court as regards the evil that is likely to befall him, if the said conviction is not suspended. The court has to consider all the facts as are pleaded by the applicant, in a judicious manner and examine whether the facts and circumstances involved in the case are such, that they warrant such a course of action by it. The court additionally, must record in writing, its reasons for granting such relief. Relief of staying the order of conviction cannot be granted only on the ground that an employee may lose his job, if the same is not done. ♦♦

(emphasis supplied)

♦11. In the light of the principles stated above, the contention that the appellant will be deprived of his source of livelihood if the conviction is not stayed cannot be appreciated. For the appellant, it is a matter of deprivation of livelihood but he is convicted for deprivation of life of another person. Until he is otherwise declared innocent in appeal, the stain stands. The High Court has discussed in detail the background of the appellant, the nature of the crime, manner in which it was committed, etc. and has rightly held that it is not a very rare and exceptional case for staying the conviction. ♦

(emphasis supplied)

19. The Apex Court in the case of Lok Prahari (supra) has again reiterated that the power to stay a conviction is by way of an exception. The decision in the case of Navjot Singh Sidhu (supra) has also been relied upon which states that the power to stay of conviction has to be resorted in a rare case only (para 15).

20. In the present case the ground as is taken for suspension of conviction is that in the event the same is not granted the appellant/applicant will remain disqualified under the Act, 1951.

21. The law as is continuously being held, reiterated and referred too is that powers of suspension of conviction should be exercised in rare cases only. The conviction of the appellant/applicant if for rioting, rioting armed with deadly weapon, endangering life or personal safety of others, assault or criminal force to deter public servant from discharging his duty, intentional insult with intent to provoke breach of peace and criminal intimidation which had caused a law and order problem and had thrown the peace of the citizens out of gear. Section 8 of the Act, 1951 stipulates the disqualification on conviction for certain offences. The offences under the Penal Code, 1860 covered by the act are which have the potentiality to destroy the core values of a healthy democracy, safety of the State, economic stability, national security, and prevalence and sustenance of peace and harmony amongst citizens and may others. The criminal activities resulting in disqualification are related to various spheres pertaining to the interest of the nation, common citizenry interest, communal harmony, and prevalence of goods governance. Merely by pleading that appellant by the conviction will stand disqualified as per the Act, 1951 is no ground to suspend the conviction.

22. The application is, accordingly rejected. ♦

28. The said order dated 22.11.2022 was subjected to challenge by the accused/convict before the Apex Court in Special Leave to Appeal (Crl.) No. 1219 of 2023: Vikram Singh Saini @ Vikar Saini vs. The State of U.P.: decided vide order dated 06.2.2023 and the same was dismissed. The said order reads as under:-

♦No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India.

The special leave petition is, accordingly, dismissed.

Pending application, if any, stands disposed of. ♦

29. In the case of Navjot Singh Sidhu v. State of Punjab : (2007) 2 SCC 574, the Apex Court has considered the power of a court to stay a conviction and summarized the legal position as under:

♦4. Before proceeding further it may be seen whether there is any provision which may enable the Court to suspend the order of conviction as normally what is suspended is the execution of the sentence. sub-section (1) of Section 389 says that pending any appeal by a convicted person, the appellate court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond. This Sub-section confers power not only to suspend the execution of sentence and to grant bail but also to suspend the operation of the order appealed against which means the order of conviction. This question has been examined in considerable detail by a Three-Judge Bench of this Court in Rama Narang v. Ramesh Narang (1995) 2 SCC 513 and Ahmadi, C.J., speaking for the Court, held as under (para 19 of the reports):

♦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 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. ♦

5. The aforesaid view has recently been reiterated and followed by another Three-Judge Bench in *Ravi Kant S. Patil v. Sarvabhouma S. Bagali JT* (2006) 1 SC 578. After referring to the decisions on the issue viz. *State of Tamil Nadu v. A. Jaganathan* (1996) 5 SCC 329, *K.C. Sareen v. C.B.I., Chandigarh* (2001) 6 SCC 584, *B.R. Kapur v. State of T.N.* (2001) 7 SCC 231 and *State of Maharashtra v. Gajanan* (2003) 12 SCC 432, this Court concluded (para 12.5 of the report):

♦16.5. All these decisions, while recognizing the power to stay conviction, have cautioned and clarified that such power should be exercised only in exceptional circumstances where failure to stay the conviction, would lead to injustice and irreversible consequences. ♦

The Court also observed:

♦11. It deserves to be clarified that an order granting stay of conviction is not the rule but is an exception to be resorted to in rare cases depending upon the facts of a case. Where the execution of the sentence is stayed, the conviction continues to operate. But where the conviction itself is stayed, the effect is that the conviction will not be operative from the date of stay. An order of stay, of course, does not render the conviction non-existent, but only non-operative. ♦

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. ♦

30. In the case of *Public Interest Foundation v. Union of India* : (2019) 3 SCC 224 the Apex Court has held that constitutional functionaries, who have taken the pledge to uphold the constitutional principles, are charged with the responsibility to ensure that the existing political framework does not get tainted with the evil of corruption. It has been held that persons with criminal background pollute the process of election as they have no inhibition in indulging in criminality to gain success in an election. It has further been held that people with criminal antecedents should not even conceive of the idea of entering into politics, they should be kept at bay. The paragraph Nos. 2, 34, 118 are as under:

♦2. The constitutional functionaries, who have taken the pledge to uphold the constitutional principles, are charged with the responsibility to ensure that the existing political framework does not get tainted with the evil of corruption. However, despite this heavy mandate prescribed by our Constitution, our Indian democracy, which is the world's largest democracy, has seen a steady increase in the level of criminalisation that has been creeping into the Indian polity. This unsettlingly increasing trend of criminalisation of politics, to which our country has been a witness, tends to disrupt the constitutional ethos and strikes at the very root of our democratic form of government by making our citizenry suffer at the hands of those who are nothing but a liability to our country.

34. In *K. Prabhakaran v. P. Jayarajan* [K. Prabhakaran v. P. Jayarajan, (2005) 1 SCC 754 : 2005 SCC (Cri) 451] , in the context of enacting disqualification under Section 8(3) of the Act, the Court observed that persons with criminal background pollute the process of election as they have no inhibition in indulging in criminality to gain success in an election. Further, the Court observed : (SCC p. 780, para 54)

♦54. ♦ Those who break the law should not make the law. Generally speaking, the purpose sought to be achieved by enacting disqualification on conviction for certain offences is to prevent persons with criminal background from entering into politics, and the house ♦ a powerful wing of governance. Persons with criminal background do pollute the process of election as they do not have many a holds barred (sic) and have no reservation from indulging in criminality to win success at an election. ♦

118. We have issued the aforesaid directions with immense anguish, for the Election Commission cannot deny a candidate to contest on the symbol of a party. A time has come that Parliament must make law to ensure that persons facing serious criminal cases do not enter into the political stream. It is one thing to take cover under the presumption of innocence of the accused but it is equally imperative that persons who enter public life and participate in law making should be above any kind of serious criminal allegation. It is true that false cases are foisted on prospective candidates, but the same can be addressed by Parliament through appropriate legislation. The nation eagerly waits for such legislation, for the society has a legitimate expectation to be governed by proper constitutional governance. The voters cry for systematic sustenance of constitutionalism. The country feels agonised when money and muscle power become the supreme power. Substantial efforts have to be undertaken to cleanse the polluted stream of politics by prohibiting people with criminal antecedents so that they do not even conceive of the idea of entering into politics. They should be kept at bay. ♦

31. On the own showing of the revisionists/accused Mohd. Azam Khan he is involved in 92 criminal cases. In so far as the

accused/revisionist Mohd. Abdullah Azam Khan is concerned he is involved in 46 cases. In so far as Mohd. Azam Khan is concerned he has been previously convicted in 8 matters in which in 2 matters he has been convicted by the court of Sessions whereas in 6 matters he has been convicted by the court of Magistrate. Against 2 convictions by the court of Magistrate, his appeal by the appellate court also stands dismissed. 81 cases are pending in various courts against him. In so far as accused/revisionist Mohd. Abdullah Azam Khan is concerned, he has been convicted by the court of Magistrate in 4 matters and out of the said matters, in 2 matters his appeals have been dismissed by the appellate court whereas there are 44 matters pending against him. The said fact also finds reference in para-26 of the judgement and order of the appellate court which is impugned herein.

32. Thus looking to the criminal antecedents of the accused/revisionists, their previous conviction(s), involvement in large number of criminal cases, no justifiable reason is coming forward for entertaining the plea for suspension of conviction. This Court does not find it a fit case for grant of stay of conviction to the revisionists Mohd. Azam Khan and Mohd. Abdullah Azam Khan. The said prayer(s) thus stand dismissed.

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33. Admit.

34. Trial court records have been received in the matter. The matters are thus ripe for hearing. The hearing of the matters is expedited.

35. Let the matters be listed in the 3rd week of January, 2027 for final hearing.

36. Office to detag Criminal Revision No.159 of 2024 along with their connected matters which were connected with the present revisions vide order dated 14.10.2026 passed by this Court.

(Samit Gopal, J.)

October 29, 2026

Naresh.

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