IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.4710 OF 2025
(Arising out of SLP(Criminal)No.10491 of 2025)

STATE OF MADHYA PRADESH & ORS. ... APPELLANTS

VS.

KUSUM SAHU ... RESPONDENT

O R D E R

1. Leave granted.

2. Learned counsel for the respondent submitted that the accused/Jibrakhan Lal Sahu, father of the respondent, has surrendered on October 25, 2025. The aforesaid fact is not disputed by learned counsel for the appellants.

3. With consent of the parties, the matter is taken up for final hearing.

4. Heard the learned counsel appearing for the parties.

5. The State has challenged the impugned order dated October 3, 2024 passed by the High Court of Madhya Pradesh at Jabalpur in Writ Petition No.24337 of 2024.

6. This is a case in which Jibrakhan Lal Sahu is an accused in FIR/Crime No.157 of 2021 dated March 7, 2021 registered at Police Station Bagsewaniya, District Bhopal, Madhya Pradesh for the offences punishable under Sections 420 and 409 of the Indian Penal Code, 1860. Pursuant to the aforesaid FIR, Jibrakhan Lal Sahu was arrested on December 12, 2023. Chargesheet was filed on February 9, 2024.

7. His first bail application bearing MCRC No.58100 of 2023 filed before the High Court was dismissed as withdrawn on January 23, 2024. Immediately thereafter, he filed second bail application bearing MCRC No.9299 of 2024, the same was dismissed by the High Court on March 5, 2024. Third bail application bearing No. MCRC No.10613 of 2024 filed by him was dismissed on March 14, 2024. Fourth bail application bearing MCRC No.19661 of 2024 filed by him, was dismissed on May 29, 2024. It shows that within a period of four months, the accused filed four bail applications before the High Court and all these were dismissed.

8. Thereafter, a novel method was adopted by his daughter-Kusum Sahu, the respondent herein. She filed Writ Petition No.24337 of 2024 before the High Court praying for

issuance of a writ of *habeas corpus* seeking release of her father/accused-Jibrakhan Lal Sahu claiming that he is in unlawful detention of the State. The High Court vide the impugned order dated October 3, 2024 allowed the writ petition and directed release of the accused/Jibrakhan Lal Sahu on his furnishing personal bond of ₹5,000/- (Rupees five thousand only) with one surety of the like amount.

9. Being aggrieved, the State has filed the present appeal. While issuing notice, this Court vide order dated July 18, 2025 passed the following order:

> "Learned counsel for the petitioners submitted that the impugned order passed by the High Court in exercise of its habeas corpus jurisdiction is totally erroneous. The bail applications filed by the respondent were dismissed by the High Court. It was thereafter that a writ petition of habeas corpus was filed by the respondent even having grievance against rejection of the bail orders.
>
> A perusal of the impugned order, prima facie, shocks our conscience seeing the manner in which jurisdiction has been exercised by the High Court.
>
> Issue notice to the respondent returnable on 18th August, 2025.
>
> In the meantime, operation of the impugned order shall remain stayed."

10. On October 6, 2025, this Court noted that despite stay of the impugned order, the accused/Jibrakhan Lal Sahu had not surrendered. He was granted three weeks' time to surrender.

11. It is not in dispute that thereafter, the accused/Jibrakhan Lal Sahu surrendered on October 25, 2025.

12. Learned counsel for the appellants submitted that it is a strange case in which despite rejection of four bail applications filed by the accused, the High Court had directed his release in a *habeas corpus* petition filed by her daughter. The custody of the accused in a criminal case cannot be said to be unlawful, especially when four bail applications filed by him had already been rejected by the High Court. The impugned order passed by the High Court was totally without jurisdiction and deserves to be set aside.

13. On the other hand, learned counsel for the respondent fairly submitted that the process adopted was wrong, though the relief was rightly granted. He further prayed that two of the accused in the same FIR have been granted regular bail. Accused/Jibrakhan Lal Sahu being similarly situated may also be granted the concession of bail.

14. Heard the learned counsel for the parties and perused the relevant material placed on record.

15. A perusal of the impugned order passed by the High Court shows that the factum of rejection of four bail applications filed on behalf of accused/Jibrakhan Lal Sahu, father of the respondent, has been noticed. The argument raised by the learned counsel for the respondent/Kusum Sahu before the High Court was that the orders rejecting bail application of her father are no less than illegal orders of continuing detention. Though the rejection of bail by the High Court can be challenged before this Court, yet a *habeas corpus* petition was filed. Despite objection of the maintainability of the petition raised by the State, the High Court allowed the same. It is specifically noticed by the High Court that the orders passed by the High Court rejecting bail of the accused can be challenged before the higher court only. The facts of the case on merits were noticed and examined by the High Court and after going through the same and recording that the parties before the Court had no finances to approach the Supreme court and are facing mental agony, the High Court found that it was a fit case for exercise of jurisdiction

under Article 226 of the Constitution of India. Finally, the Authorities were directed to release Jibrakhan Lal Sahu.

16. The facts of the case, as noticed above, in brief, indicate that the manner in which the case has been dealt with really shocks the conscience of this Court. It is a case where accused was arrested and filed four bail applications before the High Court, which were rejected. Despite this, in a *habeas corpus* petition filed by his daughter, his custody has been held to be unlawful and he was directed to be released while examining the case on merits as if the Court was hearing appeal against the order rejecting the bail application. The process followed is totally unknown to law. Lest the High Court starts following the impugned order as a precedent to scuttle the due process of law, to nip the evil in the bud, we hold that custody of an accused in a criminal case registered against him cannot be held to be unlawful especially when his bail applications have been dismissed. In the case at hand, it is not disputed that Jibrakhan Lal Sahu, father of the respondent herein, is an accused in a criminal case registered against him in which chargesheet has also been filed.

17. For the reasons mentioned above, the appeal is allowed. The accused/Jibrakhan Lal Sahu is already in custody. The impugned order passed by the High Court is set aside.

18. We make it clear that whenever bail application is filed by the accused/Jibrakhan Lal Sahu, the same may be considered on its own merits by the court concerned.

.....J.
(RAJESH BINDAL)

.....J.
(MANMOHAN)

NEW DELHI;
November 03, 2025.

ITEM NO.9 COURT NO.15 SECTION II-E

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 10491/2025

[Arising out of impugned final judgment and order dated 03-10-2024 in WP No. 24337/2024 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

STATE OF MADHYA PRADESH & ORS. Petitioner(s)

VERSUS

KUSUM SAHU Respondent(s)

Date : 03-11-2025 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :
Mr. V.V.V. Pattabhiram, D.A.G.
Ms. Mrinal Gopal Elker, AOR
Mr. Amit Sharma, Adv.

For Respondent(s) :
Mr. Raghvendra Kumar, AOR
Mr. Devvrat Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, shall also stand disposed of.

(ANITA MALHOTRA) (AKSHAY KUMAR BHORIA)
AR-CUM-PS COURT MASTER
(Signed order is placed on the file.)