


**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 653/2025

Govindram S/o Shri Ramchandra Jet, Aged About 45 Years, R/o
Paldi,tehsil Asind, Dist. Bhilwara (Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Ramdayal S/o Shri Ghasiram Ji Choudhary, Aged About
52 Years, R/o Pecharea, Nagori Garden, Tehsil And Dist.
Bhilwara (Raj.)

-----Respondents

For Petitioner(s) : Mr. Vishal Sharma

For Respondent(s) : Mr. Surendra Bishnoi, AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

23/01/2025

1. Vide order dated 02.09.2022, the Apellate Court had suspended the order of sentence passed by the learned trial court with the condition that the petitioner will deposit an amount of Rs.2,00,000/- out of the amount of compensation. Since the petitioner was not having the amount to deposit, therefore, he was taken into custody and remained languished in jail for seven months. The appeal is still pending. It is a very sorrow state of affair. It would mean that an indigent who has no sufficient money to pay the amount of compensation or to comply the interim order passed in appeal would have no right to defend his appeal which is otherwise granted by the statute. Doing so would mean depriving a person from exercising his statutory rights. Doing so would mean a poor person would not be able to file an

appeal and contest the same. Doing so would mean depriving a person from exercising statutory provision. It should not have happened so.

2. Issue notice to the respondents.
3. Learned Public Prosecutor is directed to accept notice on behalf of the respondent-State. He accepts the same. Let the notice be issued to remaining respondents.
4. Learned counsel for the petitioner is directed to file extra set and process fees within seven days failing which, the interim order, if any, shall stand vacated without reference to the Court.
5. List the matter on 10.04.2025.
6. In a subsequent development, he was released from prison after suffering seven months imprisonment out of which six months were the term of sentence and one month was of the default clause. The appeal is still pending. What the petitioner would gain if he succeeds in appeal is a further question to ponder.
7. In my view, hearing of the appeal should be stalled at this juncture just to thwart any further complexity since now the hearing and decision of the appeal would be more an academic exercise.
8. Accordingly, it is ordered that in the meantime, further proceeding in Criminal Appeal No.86/2022 pending in the Court of learned Special Judge, Women Atrocities Case, District Bhilwara and order dated 02.04.2024 passed by learned Special Judicial Magistrate, NI Act Cases in Case No.5614/2018 shall remain stayed.

9. So also further procedural defect which is noticed by this Court is that despite having served the suspended sentence and the sentence of default, learned Court of Magistrate have issued a warrant of attachment of property of the accused while neither the
10. It is felt that indulgence of this Court would be required.
11. Thus, it is ordered that neither the property of the petitioner shall be attached nor he shall be sent to the prison in default of the payment of amount or failure of recovery.

(FARJAND ALI),J