

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

D.B. Criminal Writ Petition No. 928/2026

Kanti Lal S/o Shri Ramaram, Aged About 44 Years, R/o Kalbi Vash, P.s. Mandar, District Sirohi Raj, At Present Lodged At Central Jail, Jodhpur, Through His Wife Narami Devi W/o Kanti Lal, Aged About 44 Years, R/o Kalbi Vash, P.s. Mandar, District Sirohi, Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Homedepartment, Government Of Rajasthan, Jaipur Raj..
2. The Director General (Jail), Jaipur Raj..
3. The Superintendent, Central Jail, Jodhpur Raj..

-----Respondents

For Petitioner(s)	:	Mr. Pravin Kumar Choudhary
For Respondent(s)	:	Mr. Deepak Choudhary, AAG

**HON'BLE MR. JUSTICE FARJAND ALI
HON'BLE MR. JUSTICE SANDEEP SHAH**

Order

13/03/2026

1. The present writ petition (parole) has been filed assailing the order of rejection of the petitioner's application for sending him to the Open Air Camp on the ground that the petitioner falls under the ineligibility criteria under Section 3(d) of the Rajasthan Prisoners Open Air Camp Rules, 1972 (hereinafter referred to as 'the Rules of 1972').
2. The case of the petitioner is that the petitioner was convicted for the offences punishable under Section 366 IPC and Section 5(m)/6 of POCSO Act. He was sentenced to undergo life imprisonment and other sentences.

3. The petitioner has filed an application to the concerned Committee for sending him to the Open Air Camp. The Committee constituted under the Rules of 1972 has considered the case of the petitioner and his application was rejected only on the ground that he was convicted for the offences punishable under Section 5(m)/6 of POCSO Act which make him ineligible to be sent to the Open Air Camp as provided under Rule 3(d) of the Rules of 1972.

4. The contention of the learned counsel appearing for the petitioner is that though the petitioner was convicted for the offences punishable under Sections 5(m)/6 of POCSO Act, his conviction under the aforesaid provisions does not ipso facto disentitle him from consideration for sending him to the Open Air Camp.

5. It is also his contention that the words "**ordinarily be not eligible**" more particularly the word "**Ordinarily**" as is found in **Rule 3(d)** has been considered by the another Division Bench of this Court while deciding **D.B. Criminal Writ Petition No. 532/2021 (Parole)** titled as "**Sandeep Vs. State of Rajasthan & Ors.**", decided on **23.11.2021**. The above-said Division Bench has held that Rules 3 and 4 do not absolutely prohibit entitlement of the prisoners falling in the class enumerated in Rules 3 and 4 from being sent to the Open Air Camps and each case should be considered taking into consideration the special circumstances to be made out by the prisoner, which can be exceptional to the ordinarily making the prisoner ineligible under Rule 3(d) of the Rules of 1972.

6. Therefore, it is also his contention that the impugned order shows that the rejection of the application was made only on the

ground that the conviction was made under Sections 5(m)/6 of POCSO Act and that it has not considered any special or exceptional circumstances existing in the matter. The conditions which make the prisoner ineligible under Rules 3 and 4 have not been properly considered by the Committee. Therefore, the impugned order is liable to be set aside.

7. The learned Public Prosecutor appearing for the State of Rajasthan submits that the petitioner was convicted under Sections 5(m)/6 of POCSO Act and the same are disqualification in the eligibility criteria as contemplated under Rule 4 of the Rules of 1972. The petitioner is also facing several different trials in respect of four other offences and those trials are pending. In such circumstances, the case of the petitioner for sending him to the Open Air Camp has rightly been considered by the Committee and the application of the petitioner has rightly been rejected by the Committee.

8. We have gone through the Rules 3 and 4 of the Rules of 1972. The relevant Rule 3 (d) & (f) of the Rules of 1972 which contemplates ineligibility criteria for admission to the Open Air Camp which reads as follows:-

"3. Ineligibility for admission to open air camp:- The following classes of prisoners shall ordinarily be not eligible for being sent to Open Camp:-

(a)

(b)

(c)

(d) Prisoners who have been convicted of an offences under Sections 121 to 130, 216A, 224, 2125, 231, 232, 303, 311, 328, 333, 376, 377, 383, 392 to 402, 435 to 440, and 460 of the Indian Penal Code (Act XLV of 1860).

(e)

(f) Prisoners who are habitual with more than two previous convictions of imprisonments to their credit.

(g)

(h)

- (i)
- (j)
- (k)
- (l)
- (m)"

9. It is also relevant to refer to Rule 4 which makes the prisoner eligible for admission to open air camp which reads as follows:-

"4. Eligibility for admission to Open Camps:- A prisoner shall be eligible for admission to an Open Air Camp:-

- (a) He does not fall within any of the categories specified in Rule 3 above.
- (b)
- (c)"

10. In the present case, the petitioner's case was found to fall under Rule 3(d) of the Rules of 1972, and the Committee constituted under the Rules has considered the case of the petitioner for sending him to the Open Air Camp and rejected his application only on the ground that the case of the petitioner fell under Rule 3(d) of the Rules of 1972. As per the decision of the co-ordinate Bench of this Court in the case of **Sandeep** (supra) [referred to hereinabove] has taken the view that the words **"shall ordinarily be not eligible for being sent the prisoner to the open air camp"** do not absolutely prohibit the entitlement of the prisoners for consideration of the case of the prisoners for admission to the open air camp and each case should be considered and decided in the light of the special circumstances to be made out.

11. The use of the words "ordinarily be not eligible" cannot be construed to be an absolute bar under the Rules of 1972. There may be exceptions. The prisoners, who are making applications for sending them to open air camp, have to make out exceptional circumstances for making themselves eligible for the purpose of open air camp. Therefore, the case of the petitioner has to be

considered by the Committee taking into account the special and exceptional circumstances as projected by the petitioner for deviating from the Rules of 1972 and the case of the petitioner has to be accordingly decided.

12. Therefore, we are inclined to allow the present criminal writ petition (parole) by setting aside the impugned minutes of meeting dated 19.03.2025 qua the present petitioner only on the ground that the rejection of the petitioner's case was made on the basis that his case fell under Rule 3(d) of the Rules of 1972 which does not create an absolute bar for consideration of the petitioner's case for admission to the open air camp as per the decision of this Court in the case of **Sandeep** (supra).

13. In the result, the instant criminal writ petition (parole) is allowed. The impugned minutes of the meeting dated 19.03.2025 are set aside qua the present petitioner and the case of the petitioner for sending him to the Open Air Camp is remitted back to the Committee for re-consideration and decision, if the petitioner makes out any special circumstances for deviating from the general ineligibility criteria contemplated under Rule 3(d) of the Rules of 1972.

14. The said exercise shall be done within a period of one month from the date of submission of a certified copy of this order.

15. With the aforesaid observations and directions, the writ petition is disposed of accordingly.

(SANDEEP SHAH),J

(FARJAND ALI),J