

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 606/2025

In

D.B. Criminal Appeal No. 100/2021

Dulichand @ Duliram S/o Bhoma Ram, Aged About 26 Years, R/o
Ward No. 5, Gajsinghpur, at Present Ward No. 13, Raisinghnagar
P.S. Raisinghnagar, District Sriganganagar.
(At present lodged in Central Jail, Sriganganagar.)

-----Appellant

Versus

State Of Rajasthan.

-----Respondent

For Petitioner(s)	:	Mr. Sunil Bishnoi.
For Respondent(s)	:	Mr. Rajesh Bhati, PP.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

14/07/2025

1. The appellant-applicant herein has been convicted and sentenced as below vide judgment dated 19.07.2021 passed by learned Special Judge, Special Court, POCSO Act, 2012 and the Commission for Protection of Child Rights Act, 2005, No.2, Sriganganagar in Sessions Case No.49/2021:

Offence	Sentence	Fine
450 IPC	5 Years R.I.	Rs.5,000/- and in default of which to further undergo three months' R.I.
363 IPC	3 Years R.I.	Rs.3,000/- and in default of which to further undergo one month's R.I.

366 IPC	5 Years R.I.	Rs.5,000/- and in default of which to further undergo three months' R.I.
5L/6 POCSO Act, 2012	Ten Years' R.I.	Rs.20,000/- and in default of which to further undergo one year's R.I.
376(2)(i) IPC	Life Imprisonment	Rs.50,000/- and in default of which to further undergo three years' R.I.

2. The appellant-applicant has preferred this application for suspension of sentence under Section 389 Cr.P.C. (430 B.N.S.S.) for suspension of sentences during the pendency of the appeal and for release on bail.

3. Learned counsel appearing on behalf of appellant-applicant submits that the appellant being a young man, faces allegations stemming from a report lodged on 26.02.2016 by the father of the prosecutrix, whose date of birth is 06.06.2002 alleging that his daughter (prosecutrix) had been enticed away by the present appellant, who had also allegedly taken away certain jewelry and cash. Upon conducting a search for the said daughter (prosecutrix), she was duly recovered, and it is further alleged that the accused has been making threats to take her away again.

3.1 Learned counsel further submits that the relationship in question was purely consensual in nature, though he accepts that the prosecutrix was minor at the time of alleged occurrence. He also submits that the appellant has been in custody since 03.03.2016 thereby completing 09 years and few months of actual incarceration.

3.2 Learned counsel also submits that the factual matrix and circumstances of the case require this Court's consideration of the application for suspension of sentence at this stage, particularly, in

light of the prolonged period of custody already undergone by the appellant.

4. Learned Public Prosecutor though opposes the application for suspension of sentence, but is unable to refute that the appellant has been in continuous custody since 03.03.2016. He also unable to point out any instances of physical violence or the use of force in the matter, and fairly submits that the case against the appellant primarily rests upon the fact that the prosecutrix was minor at the time of alleged occurrence.

5. Upon a conjoint consideration of the submissions advanced by learned counsel for the appellant-applicant, and particularly, taking into account the fact that the appellant has already undergone custody for a period of 09 years and few months, this Court deems it appropriate to suspend the substantive sentence of the appellant-applicant during the pendency of the appeal.

6. Accordingly, the instant application for suspension of sentences filed under Section 389 Cr.P.C. (430 B.N.S.S.) is allowed and it is ordered that substantive sentence passed by learned Special Judge, Special Court, POCSO Act, 2012 and the Commission for Protection of Child Rights Act, 2005, No.2, Sriganganagar in Sessions Case No.49/2021 against the appellant-applicant **Dulichand @ Duliram S/o Bhoma Ram** shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail, provided he executes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of learned trial Judge for his appearance in this Court on **14.08.2025** and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:

(i). That he will appear before the trial court in the month of January of every year till the appeal is decided.

(ii). That if the applicant changes the place of residence, he will give in writing his changed address to the trial Court as well as to the counsel in the High Court.

(iii). Similarly, if the sureties change their address(s) they will give in writing their changed address to the trial court.

7. The learned trial court shall keep the record of attendance of the accused-applicant in a separate file. Such file be registered as Criminal Misc. Case relating to original case in which the accused-applicant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of the cases in the trial court. In case, the said accused-applicant does not appear before the trial court, learned trial Judge shall report the matter to the High Court for cancellation of bail.

(SUNIL BENIWAL),J

(DR.PUSHPENDRA SINGH BHATI),J.