

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

D.B. Criminal Misc. Suspension of Sentence Application (Appeal)
No. 978/2026

Ridmal Singh S/o Late Shri Jalam Singh Solanki, Aged About 38
Years, Resident Of Dhundhara, Police Station Osian, Jodhpur. (At
Present Lodged At Central Jail Jodhpur)

----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor

----Respondent

For Petitioner(s)	:	Mr. Firoz Khan
For Respondent(s)	:	Mr. Rajesh Bhati, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR (VACATION JUDGE)
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA (VACATION JUDGE)

Order

25/06/2026

1. The instant application for suspension of sentence has been moved on behalf of the appellant in the matter of judgment dated 04.04.2026 passed by the learned Additional Sessions Judge, No. 04, Jodhpur Metropolitan, in Criminal Sessions Case No. 10/2016, whereby the appellant was convicted for the offences punishable under Sections 364-A, 365 and 120-B of the Indian Penal Code and was sentenced to imprisonment for life along with a fine of Rs. 15,000/-.

2. Learned counsel for the appellant submits that the trial court failed to properly appreciate the legal and factual aspects involved in the matter, resulting in an erroneous finding of guilt. Being the first appellate court, this Court may reappraise the evidence. It is further submitted that the appellant remained on bail during trial

without misuse of liberty, and as the appeal will take time for disposal, the sentence deserves to be suspended.

3. Learned counsel for the appellant submits that the sentence awarded to co-accused – Raju Singh @ Rajendra Singh (D.B. Criminal Misc. Suspension of Sentence Application (Appeal) No. 727/2026) by the competent criminal court has already been suspended by this Court vide order dated 12.06.2026. Learned counsel further submits that the case of the present appellant is not worse than the case of the co-accused Raju Singh @ Rajendra Singh, sentence qua whose has already been suspended.

4. Learned Public Prosecutor has opposed the prayer for suspension of sentence. However, on being queried by the Court, he was not in a position to refute the fact that the sentence passed against the co-accused – Raju Singh @ Rajendra Singh has already been suspended by this Court vide order dated 12.06.2026.

5. Heard learned counsel for the parties and perused the material available on record.

6. The order dated 12.06.2026 passed by this Court while suspending the sentence passed qua the co-accused – Raju Singh @ Rajendra Singh is reproduced hereinbelow for ready reference:-

"1. The instant application for suspension of sentence has been moved on behalf of the applicant in the matter of judgment dated 04.04.2026 passed by the learned Additional Sessions Judge No. 4, Jodhpur Metropolitan, in Criminal Sessions Case No. 10/2016, whereby the appellant was convicted for the offences punishable under Sections 364-A, 365 and 120-B of the Indian Penal Code and was

sentenced to imprisonment for life along with a fine of Rs.15,000/-.

2. *Learned counsel for the appellant submits that the trial court failed to properly appreciate the legal and factual aspects, resulting in an erroneous finding of guilt. Being the first appellate court, this Court may reappraise the evidence. It is further submitted that the appellant remained on bail during trial without misuse of liberty, and as the appeal will take time for disposal, the sentence deserves to be suspended.*

3. *Learned Public Prosecutor has opposed the prayer for suspension of sentence.*

4. *Heard learned counsel for the parties and perused the material available on record.*

5. *The distinction between grant of bail under Section 439 CrPC (corresponding to Section 483 BNSS) and suspension of sentence under Section 389 CrPC (corresponding to Section 430 BNSS) is well settled. While the former operates at the pre-conviction stage, the latter comes into play post-conviction and requires the appellate court to assess, prima facie, the sustainability of the conviction and sentence under challenge.*

6. *Upon conviction, the presumption of innocence stands displaced; however, while considering suspension of sentence, the appellate court is required to evaluate whether the grounds raised in appeal disclose a substantial and arguable case. If the material on record suggests that the findings of the trial court may be debatable, the discretion under Section 389 CrPC (corresponding to Section 430 BNSS) can be justifiably invoked. Where the appeal raises issues which, on prima facie consideration, indicate a reasonable possibility of success, including reversal or modification of conviction, the sentence may be suspended pending adjudication.*

7. *This Court is guided by the enunciation of law by the Hon'ble Supreme Court in **Muna Risol v. State of Odisha wherein it has been held that (February 16, 2026)** prolonged pendency of criminal appeals, not attributable to the convict, constitutes a valid ground for suspension of*

sentence. Reliance has also been placed on **Kashmira Singh v. State of Punjab (1977) 4 SCC 291**, wherein the Supreme Court deprecated continued incarceration of convicts for long periods during pendency of appeals, observing that such practice would amount to a travesty of justice.

8. It is equally settled that while considering such application, the appellate court is not required to record conclusive findings on merits, as that would prejudice the final adjudication. A *prima facie* satisfaction regarding the arguability and substance of the grounds would suffice. The appellate jurisdiction being a continuation of trial, the entire evidence remains open to re-appreciation. The court may ultimately affirm, modify, or set aside the conviction, or alter the sentence, depending upon the outcome of such re-evaluation.

9. Additionally, even where conviction is sustained, the nature of offence or quantum of sentence may warrant reconsideration at the appellate stage, which further justifies a liberal approach in appropriate cases. This Court cannot lose sight of the fact that it is burdened with a large number of pending criminal appeals, and the likelihood of their early disposal remains uncertain. In such circumstances, continued incarceration, despite arguable grounds in appeal, would not be justified, particularly when delay is not attributable to the appellant.

10. This Court feels force in the submissions made by the learned counsel for the appellant that the appellant remained in custody for more than four and a half years and he also remained on bail during the course of the trial but misuse was never ever complained of. He appeared on the day of judgment to receive the order of sentence.

10.1 The force has also been perceived in the legal submission that the case of the prosecution would not prove for commission of an offence under Section 364(A) of the IPC, since the alleged abduction was not for demand of ransom only and a further fact that no such ransom amount was given rather as per the prosecution's own case, the detainee had been let free without injuring him. The

submission with regard to a land dispute between co-accused namely Jitendra Singh and Lokesh Saran and the complainant of this case is also worth considering to bolster the defence plea that it was not a case of kidnapping for ransom rather it may be a case of use of unlawful force for the purpose of demand of money of the amount, the accused perceived his bonafide right. There are no criminal antecedents against the appellant. We deem it appropriate to extend the benefit of bail to the applicant. The issues raised are significant and merit consideration. If accepted, they may result in acquittal. They require proper examination and re-appreciation of evidence, with a fair possibility of benefit to the appellant.

11. Accordingly, the application for suspension of sentence filed under Section 389 Cr.P.C. (corresponding to Section 430 BNSS) is allowed and it is ordered that the sentence passed by learned trial court, the details of which are provided in the first para of this order, against the appellant-applicant named above 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 the learned trial Judge and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

- 1. That he will appear before the trial Court in the month of January of every year till the appeal is decided.*
- 2. 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.*
- 3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.*

12. 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 related 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 cases in the trial court. In case the said accused applicant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.”

7. Accordingly, the application for suspension of sentence filed under Section 389 Cr.P.C. (corresponding to Section 430 BNSS) is allowed and it is ordered that the sentence passed by the learned trial court, the details of which are provided in the first para of this order, against the appellant-applicant named above 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 the learned trial Judge and whenever ordered to do so till the disposal of the appeal on the conditions indicated below :-

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

8. 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 related to the 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. The Criminal Misc. file shall not be taken into account for statistical purposes



relating to pendency and disposal of cases in the trial court. In case the said accused-applicant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

**(CHANDRA SHEKHAR SHARMA
(VACATION JUDGE)),J**

**(KULDEEP MATHUR
(VACATION JUDGE)),J**

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