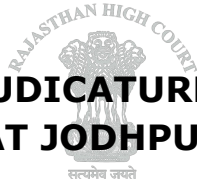


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Writ Petition No. 2997/2026

CNR: RJHC010616102026

URN: CRLW / 4025U / 2026

Kolaram S/o Shri Badaram, Aged About 46 Years, At Present Lodged At Central Jail, Jodhpur, Through His Wife Jomi Bai W/o Kalaram (Kolaram), Aged About 46 Years, R/o Thal Kala, Pipla, Sewari, P.s.bali, Pali, (Raj).

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Home Department, 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 Kr. Choudhary

For Respondent(s) : Mr. Shriram Choudhary, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

06/07/2026

1. The present criminal writ petition has been filed by the convict-petitioner through his brother assailing the order dated 30.12.2025 (Annexure-2), whereby the application preferred by the convict-petitioner seeking his transfer to the Open Air Camp, Jodhpur, came to be rejected.

2. Learned counsel for the petitioner submitted that the application for transfer of the convict-petitioner from the Central Jail, Jodhpur to the Open Air Camp, Jodhpur under the provisions of the Rajasthan Prisoners Open Air Camp Rules, 1972 (hereinafter referred to as "the Rules of 1972"), has been rejected

solely on the ground that he stands convicted for the offence under Section 376-A of IPC & Sections 5/6 of POCSO Act.

3. Learned counsel for the petitioner further submitted that the rejection of the petitioner's case for transfer to the Open Air Camp is unsustainable in law. Drawing the attention of the Court to Rule 3(d) of the Rules of 1972, learned counsel submitted that, ordinarily, prisoners convicted for offences under Section 376-A IPC/5/6 POCSO Act are not eligible to be sent to an Open Air Camp; however, the competent authority is required to consider each case on its own merits and take into account any special circumstances which may justify such transfer. It was further submitted that, in an identical situation, this Court in ***Subhash vs. State of Rajasthan & Ors., D.B. Criminal Writ Petition No.2823/2025***, decided on 28.10.2025, remanded the matter to the competent authority for reconsideration in the light of the judgment rendered by this Court in ***Sandeep vs. State of Rajasthan & Ors., D.B. Criminal Writ Petition No.532/2021 (Parole)***, decided on 23.11.2021. Learned counsel, therefore, prayed that the present criminal writ petition be allowed and the matter be remanded to the competent authority for reconsideration of the petitioner's case in the light of the aforesaid judgments.

4. *Per contra*, the learned Deputy Government Advocate vehemently submitted that, since the petitioner has been convicted for a heinous offence, his transfer to the Open Air Camp was not found feasible in view of Rule 3(d) of the Rules of 1972 and, therefore, the petitioner's application has rightly been rejected. He, therefore, prayed for dismissal of the writ petition.

5. I have heard learned counsel for the parties and have perused the material available on record.

6. Having considered the submissions advanced at the Bar, this Court finds that though the petitioner has been convicted for an offence falling within the category of offences referred to in Rule 3(d) of the Rules of 1972, the expression "**shall ordinarily not be eligible for being sent to an Open Air Camp**" does not create an absolute bar against consideration of such cases. The said expression contemplates that each case is required to be examined on its own merits and in the light of any special circumstances that may justify such transfer. The use of the words "**ordinarily not be eligible**" cannot be construed as an absolute prohibition under the Rules of 1972. Consequently, the competent authority is under an obligation to consider whether any exceptional circumstances exist warranting the petitioner's transfer to the Open Air Camp and to assign cogent reasons if the request is to be rejected.

7. In view of the foregoing discussion and keeping in view the law laid down in **Subhash (supra)** and **Sandeep (supra)**, the present criminal writ petition is **disposed of**. The impugned order dated 30.12.2025 (Annexure-2), whereby the petitioner's application for transfer to the Open Air Camp came to be rejected, is quashed and set aside qua the present petitioner. The matter is remanded to the competent authority of the respondent-department for reconsideration of the petitioner's case for transfer to the Open Air Camp in the light of the judgments rendered in **Subhash (supra)** and **Sandeep (supra)**.

8. The aforesaid exercise shall be completed by the competent authority within a period of two months from the date of receipt of a certified copy of this order.

9. Stay application stands disposed of.

(KULDEEP MATHUR),J