

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Misc. II Suspension Of Sentence Application
(Appeal) No. 233/2025

In

S.B. Criminal Appeal No. 699/2022

Mithun @ Chunni S/o Khemchand, aged about 21 Years, R/o
Pahel, PS Mundavar Distt. Alwar (Accused In Central Jail, Alwar)

-----Petitioner

Versus

State of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. R.R.Goyal with Mr. Deepak Acharya Mr. Kaptain PRajapat
For Respondent(s)	:	Mr. Amit Kumar Punia-PP Mr. Naresh Kumar Gupta-PP

JUSTICE ANOOP KUMAR DHAND

Order

26/02/2026

1. Instant second application has been submitted by the applicant/appellant seeking suspension of sentence, as awarded by the Special Court, POCSO Act, 2012 and the Commission for Protection of Children Right Act, 2005, No. 3 Alwar vide judgment dated 22.02.2022 in Session Case No. 24/2019.

2. Counsel for the applicant-appellant submits that the appellant has been found guilty for the offences punishable under Sections 363 and 377 IPC and under Section 5(m)/6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and he has been sentenced to undergo ten years rigorous imprisonment. Counsel submits that the appellant has already

completed almost half sentence of the total sentence awarded by the Trial Court. Counsel further submits that disposal of the appeal is bound to take its time, therefore the sentence awarded to the applicant-appellant be suspended till disposal of the appeal.

3. Per contra, learned Public Prosecutor opposes the prayer and submits that looking to the nature of allegations levelled against the appellant, his sentence should not be suspended, however, he is not in a position to controvert the submission made on behalf of the appellant that the appellant has already served almost half of the total sentence as awarded by the Trial Court.

4. Heard learned counsel for the appellant and learned Public Prosecutor and perused the material available on record.

5. Perusal of the record indicates that the learned Trial Court has convicted and sentenced the appellant to rigorous imprisonment for a period of ten years and the appellant has already served four years, eleven months and twenty eight days sentence till date, i.e., almost half of the total sentence awarded by the Trial Court. The Hon'ble Apex Court recently in the case of **Saibaj Noormohammad Shaikh Vs. State of Maharashtra and Anr.** reported in **2024(4) RLW 3545** dealt with a similar matter wherein the applicant was found guilty for the offence punishable under Sections 376-D and 354 of IPC and Section 4 of the POCSO Act, and he had served 10 years out of the total sentence of 20 years as awarded by the Trial Court which was almost half of the total sentence. Dealing with such like matter, it has been held by the Hon'ble Apex Court in para 11 as under:-

"We have considered the submissions advanced at the Bar. We find that in the first place, the appeal is filed by the appellant herein before the High Court, which is of the year 2020. Obviously, the orders appeals would be heard prior to this appeal being considered. We also notice that the co-accused has been released on bail by the High Court. Further the appellant has already completed a little more than half the sentence imposed by the Sessions Court. There is no likelihood of the sentence being enhanced as such by the High Court. In the circumstances, we find that the appellant is entitled to suspension of sentence and release on bail.

6. Considering the peculiar facts and circumstances of the instant case, this Court is of the considered opinion that there are less chances of hearing the applicant's appeal as plenty of old matters are pending for hearing before this Court. Hence, under these circumstances, the sentence awarded to the appellant is suspended till final disposal of the appeal.

7. Accordingly, the second application for suspension of sentence filed by the applicant is allowed and the sentence awarded against the applicant-appellant- **Mithun @ Chunni**, shall remain suspended till final disposal of the aforesaid appeal, subject to the condition that the appellant shall deposit the fine amount, as imposed by the Trial Court and he shall be released on bail provided he executes a personal bond for the sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- each to the satisfaction of the learned Trial Court for appearance before this Court on 30.03.2026 and whenever ordered to do so, till the disposal of the appeal on the conditions indicated below:-

1. That he shall appear before the Trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant changes his place of residence and mobile number, he will give in writing his changed address and mobile number 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.
4. Appellants shall deposit a fine amount as imposed by the learned Trial Court.
5. In case the applicant-appellant is found involved in committing and repeating the same offence again, the State/complainant would be at liberty to move application for cancellation of bail.

8. The learned Trial Court shall maintain the record of attendance of the accused-appellant in a separate file. Such file be registered as Criminal Misc. Case relating to the original case in which the accused-appellant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Such Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the Trial Court.

9. In case, the said accused-appellant does not appear before the Trial Court and commits any default, the learned Trial Court shall report the matter to the High Court for cancellation of the bail.

10. Before parting with this order, this Court deems it just and proper to issue appropriate directions to the Rajasthan State Legal Services Authority, Jaipur as well as District Level Services Authority, Alwar to verify whether the amount in terms of the Victim Compensation Scheme has been awarded to the victim or not. In case, the amount is not awarded to the victim in terms of

the aforesaid scheme, the necessary needful exercise shall be done forthwith without any further delay.

11. Let a copy of this order be sent to the Rajasthan State Legal Services Authority, Jaipur as well as District Level Services Authority, Alwar for compliance of this order.

(ANOOP KUMAR DHAND),J

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