

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 657/2025

In

S.B. Criminal Appeal No.797/2025

Rajesh S/o Shree Sitaram, Aged About 22 Years, R/o Sirodiya Ki Dhani, Police Station Jobner District Jaipur (Rajasthan)
(Presently Confined In The Central Jail Jaipur)

----Petitioner

Versus

1. State Of Rajasthan, Through Special Public Prosecutor
2. Motilal S/o Mohan Lal Meena, Aged About 54 Years, R/o Indra Colony Purana Ward No. 02, Naya 4, Jobner Police Station Jobner District Jaipur

----Respondents

Connected With

S.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 632/2025

In

S.B. Criminal Appeal No. 765/2025

Mohan S/o Shri Sitaram, Aged About 22 Years, R/o Nehra Ki Dhani, Police Station Jobner, District Jaipur (Presently Confined In Central Jail Jaipur)

----Petitioner

Versus

State Of Rajasthan, Through The Public Prosecutor

----Respondent

For Petitioner(s)	:	Mr. Parmindra Dadhich Mr. Anish Bhadala
For Respondent(s)	:	Mr. Vijay Singh Yadav, PP Mr. Deepak Soni

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

30/04/2025

1. The instant applications for suspension of sentence is preferred by appellants-**Rajesh S/o Shree Sitaram and Mohan S/o Shri Sitaram** aggrieved from order of conviction and sentence dated 12.03.2025 in Sessions Case No.48/2022 passed by learned Special Judge (POCSO Act Cases), Jaipur whereby appellants were convicted for offence under Sections 363/120B, 366/120B IPC and 3(1)(w) of ST/ST (POA) Act and sentenced accordingly.

2. Learned counsel for the appellants submitted that appellants are innocent persons and they were falsely implicated by victim. He further submitted that both the appellants were neither named in the FIR nor in oral statements of witnesses recorded during investigation. He further submitted that after taking U-turn under the influence of family the victim has named both appellants for assisting main accused Banwari and abetting the offence committed by Banwari. He also referred the statement of victim recorded under Section 164 Cr.P.C. and submitted that victim has not named any of the appellants for involvement of any offence. He also referred the evidence and submitted that not a single prosecution witness has named appellants for committing any offence. At last, he submitted that both the appellants were on bail during trial and they have never misused the liberty granted to them.

3. Aforesaid contentions were opposed by learned Public Prosecutor and learned counsel for complainant. He submitted custody certificates along with report received from concerned police station and same are taken on record. Learned counsel for complainant submitted that victim was minor and both the

appellants have actively assisted Banwari in kidnapping victim from one place to another. He further submitted that the involvement of appellants is well established from the evidence of victim recorded before the trial court.

4. Heard learned counsel for parties and learned Public Prosecutor. Perused the record.

5. On the basis of report, Ex.P-8 registered by uncle of 16 years old victim, FIR No.144/2022 was registered at P.S. Jobner, Jaipur (Rural) on 16.05.2022 under Sections 363, 379 IPC and 84 of JJ Act and 3(2)(va) of SC/ST (POA) Act. After recovery of victim, medical was conducted on 29.05.2022 and statement under Section 164 Cr.P.C was recorded on 31.05.2022. After investigation, police has filed charge-sheet against Banwari Lal under Sections 363, 366, 376/120B IPC and 84 of JJ Act and 3(1)(w), 3(2)(v) of SC/ST (POA) Act and 3/4, 16/17 of POCSO Act and against Mohan and Rajesh under Sections 363, 366, 120B IPC and 84 of JJ Act and 16/17 of POCSO Act and 3(2)(v) of SC/ST (POA) Act.

6. During trial, prosecution has examined 18 witnesses and exhibited 39 documents. The accused were examined under Section 313 Cr.P.C. and in defence they have recorded statement of DW-1 Kamlesh and exhibited 7 document. Learned trial court has convicted and sentenced Banwari under Sections 363, 366 IPC and 3/4 of POCSO Act alternatively Section 376 IPC and Section 3(1)(w), 3(2)(v) of SC/ST (POA) Act and convicted Mohan and Rajesh under Sections 363/120B, 366/120B IPC and 3(1)(w) of ST/ST (POA) Act. Both the appellants were on bail during trial and disposal of appeals will take its own time. As per report, no other

criminal antecedent is reported against appellants. At this stage, it is not possible for us to express any opinion on merits of the case, therefore it is appropriate to allow SOS applications of appellants.

7. Therefore, without expressing any opinion on merits, I am of considered view that it is a fit case wherein appellants can be enlarged on bail. The applications under Section 430(1) B.N.S.S. are allowed and sentence of appellant accused- **Rajesh S/o Shree Sitaram and Mohan S/o Shri Sitaram** is suspended till disposal of appeals with the condition that each of them would execute 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 for his their in this court on 11.08.2025 and whenever ordered to do so till the disposal of the appeals on the conditions indicated below:-

1. That the appellant accused shall not contact or connect directly or indirectly with victim or any of her family member.
2. After release of appellants on bail, they will not indulge in any criminal activity and if it is found that they are involved in any criminal activity, the order shall be recalled.
3. That they will appear before the trial Court in the month of January of every year till the appeal is decided.
4. That if the applicant changes the place of residence, they will give in writing their changed address to the trial Court as well as to the counsel in the High Court.

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

8. Misc. Application stands disposed of.

9. A copy of this order be sent to learned trial court through E-mail.

10. It has come to notice that main accused is Banwari Lal and after judgment dated 12.03.2025, no appeal whatsoever has been filed by Banwari but in case, no appeal is filed till 31.07.2025, then office is directed to inform RHCLSC, Jaipur Bench, Jaipur to take up the matter with DLSA and ensure that system of legal aid be used for purpose of filing appeal, in case main accused Banwari desired so.

(ASHOK KUMAR JAIN),J