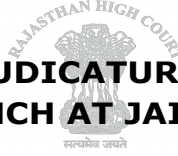




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Misc. 3rd Suspension Of Sentence Application
(Appeal) No. 557/2026

CNR: RJHC020263552026 | URN: SOSA / 1077U / 2026

Yogesh Son Of Mahaveer, Resident Of Padda Vardar Police
Station Khandar District Sawaimadhopur (At Present The
Accused Petitioner Is Confined In The District Jail,
Sawaimadhopur)

-----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor

-----Respondent

For Petitioner(s)	:	Mr. Manish Gupta, Adv.
For Respondent(s)	:	Mr. Jitender Singh Poonia, Special PP for Customs Dept.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

27/07/2026

1. The applicant herein has been convicted for offences under Sections 447 & 354B of IPC and Section 5/6 of POCSO Act, 2012 vide judgment dated 23.12.2020 passed by learned Special Judge, POCSO Act, 2012, Sawai Madhopur in Sessions Case No. 20/2020 and has been sentenced to maximum punishment of 20 years.
2. The first application for suspension of execution of sentence filed on behalf of the applicant was dismissed with liberty to renew the prayer, if appeal is not heard finally on or before 31.05.2025. Subsequently, the second application for suspension of execution of sentence was filed by the applicant, which was dismissed by this Court vide order dated 13.08.2025 on merits. Now, the third



application for suspension of execution of sentence has been preferred by the applicant.

3. Learned counsel for the applicant submits that learned trial Court has erred in convicting and sentencing the applicant as mentioned above. Learned trial Court has not appreciated the evidence in the right and correct perspective. Counsel submits that after dismissal of the second application for suspension of sentence, the applicant has engaged a new counsel, who upon examining the record, has found certain aspects which requires fresh consideration by this Court. It is contended that till date the applicant has suffered incarceration of more than six years. It is contended that in view of the fact that the applicant has served incarceration of more than six years, this third application for suspension of execution of sentence may be considered liberally.

4. Learned counsel appearing for the State opposes the submissions made by learned counsel for the applicant. He submits that there is no change in circumstances to entertain this third application for suspension of execution of sentence and as per DNA report available on record, it is established that male DNA of the applicant has been found in vulvo vaginal slide and vulvo vaginal swab of the victim, therefore, considering the nature and gravity of the offence, evidence implicating the applicant in the alleged and that no change in circumstances is made out, this third application for suspension of execution of sentence may be dismissed.

5. Heard learned counsel for the applicant and learned Public Prosecutor on the third application for suspension of execution of sentence. Perused the material available on record.



6. It is pertinent to note that the second application for suspension of sentence preferred by the applicant was dismissed on merits by this Court after considering the entire factual matrix of the case. While rejecting the said application, this Court had specifically observed that the conviction recorded by the learned trial Court was prima facie supported by the evidence available on record and no circumstance of an exceptional nature was made out so as to warrant suspension of the substantive sentence during pendency of the appeal.

7. The only ground urged in the present third suspension of sentence application is that the appellant has changed his counsel, who seeks to advance certain additional submissions on the basis of the material already available on record. In the considered opinion of this Court, mere change of counsel does not constitute a material change in circumstances so as to justify reconsideration of an application which has already been rejected on merits. The present application is, in essence, an attempt to re-agitate the very issues which already stand considered and rejected by this Court, which is impermissible in law.

8. Upshot to the above discussion, this third application for suspension of execution of sentence stands dismissed.

(ANIL KUMAR UPMAN),J