

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

S.B. Criminal Misc. 3<sup>rd</sup> Suspension Of Sentence Application  
(Appeal) No. 627/2026  
URN: SOSA / 1205U / 2026

IN

S.B. Criminal Appeal No.53/2024

Hafiz S/o Sahaj Khan, Aged About 27 Years, R/o Village  
Ranbhana. P.s. Sheikhpur Ahir, District Alwar, Rajasthan  
(Presently Lodged In Central Jail, Alwar, Rajasthan)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

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|-------------------|---|--------------------------------------------------------------------------------------------|
| For Petitioner(s) | : | Mr. Swadeep Singh Hora with<br>Mr. T.C. Sharma<br>Mr. Abhimanyu Singh<br>Mr. Kshitiz Singh |
| For Respondent(s) | : | Mr. Rishi Raj Singh Rathore, PP                                                            |

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**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

**Order**

**15/07/2026**

1. Heard learned counsel for the appellant-applicant and learned State counsel on the third suspension of sentence application.
2. The applicant-appellant herein has been convicted for offences punishable under Sections 376D & 313 of the IPC & Section 5(g)/6 of the POCSO Act vide judgment dated 08.11.2023 passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 & Child Rights Protection Commission,

2005 No.3, Alwar in Sessions Case No.37/2021 and has been sentenced to maximum punishment of twenty years.

3. The previous application for suspension of execution of sentence filed by the appellant-applicant was dismissed as withdrawn by this Court vide order dated 11.09.2024. Now, this third application for suspension of execution of sentence has been filed on behalf of the appellant-applicant.

4. Learned counsel appearing on behalf of the appellant-applicant submits that appellant-applicant has wrongly been convicted by the learned trial Court. Counsel submits that learned trial Court has failed to appreciate the evidence available on record in correct perspective. It is submitted that according to the testimony of victim (PW-1), similar allegations have been levelled against other co-accused, namely Tasleem, Rizwan and Tausa. Counsel submits that co-accused Rizwan & Tausa have not been charge-sheeted by the Investigating Agency. So far as co-accused Tasleem is concerned, DNA report indicates that Tasleem is the biological father of the child delivered by the victim, who died later on. It is submitted that the DNA report does not support the allegations levelled by the victim against the appellant-applicant. It is further submitted that later on, victim improved her version and levelled allegation against two other persons, namely Asgar @ Bhukkad & Kalim @ Alim. Both were convicted along with appellant-applicant and Tasleem. It is submitted that the applications for suspension of execution of sentence preferred on behalf of Kalim @ Alim and Asgar @ Bhukkad have already been allowed by this Court. It is further contended that only vague

allegations have been levelled by the victim against the appellant-applicant and there is no independent corroboration of the allegations levelled by the victim, either through the testimony of any other witness or by medical evidence. It is contended that appellant-applicant has already suffered incarceration of more than five years. Counsel submits that there is no immediate prospect of this appeal being heard and disposed of in near future, despite the fact that the appellant-applicant has already preferred an application for early hearing. However, the said application was dismissed by the co-ordinate Bench of this Court vide order dated 24.09.2025. Looking to the large pendency of criminal appeals before this Court, appellant will serve the entire sentence till the time appeal will come for hearing.

5. Learned State counsel opposes the submissions made by counsel for the appellant-applicant. He submits that learned trial Court has not erred in convicting the applicant-appellant.

6. Upon a consideration of the arguments advanced on behalf of the appellant-applicant as well as learned State Counsel and having regard to the facts and circumstances as available on the record including judgment passed by learned trial Court and testimony of victim, so also considering the medical evidence, especially the fact that appellant-applicant has already suffered incarceration of more than five years, as also looking to the large pendency of criminal appeals before this Court and there is no immediate prospect of this appeal being heard and disposed of in near future, this Court is of the opinion that the appellant has available to him strong grounds to assail the impugned judgment

of conviction and sentence. Thus, it is a fit case for suspending the sentences awarded to the appellant-applicant during pendency of the appeal.

7. Accordingly, this third application for suspension of sentence filed under Section 430 BNSS is allowed and it is ordered that the sentence passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 & Child Rights Protection Commission, 2005 No.3, Alwar vide judgment dated 08.11.2023 in Sessions Case No.37/2021 against the appellant-applicant **Hafiz S/o Sahaj Khan** 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.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his appearance in the Court on 17.08.2026 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.

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 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.

(ANIL KUMAR UPMAN),J

GAUTAM JAIN/7