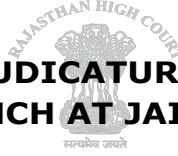




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Misc. Suspension Of Sentence Application (Appeal)
No. 1514/2024

In

S.B. Criminal Appeal No.2028/2023
URN: SOSA / 2618U / 2024

Parvesh @ Pirare Son Of Shri Mansingh, Resident Of Village
Khurd Police Station Sadar District Dholpur (Raj) (At Present
Confined In District Jail, Dholpur)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Ambrish Vashishtha, Adv.
For Respondent(s)	:	Mr. Amit Punia, PP
For Complainant(s)	:	Mr. Prashant Sharma, Adv.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

03/07/2026

1. Heard learned counsel for the applicant, learned counsel for the complainant as well as learned State counsel and perused the material available on record.
2. The applicant herein has been convicted for offence punishable under Section 5(m)/6 of Protection of Children from Sexual Offences Act, 2012 vide judgment dated 06.07.2023 passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012, Cases and Commission for Protection of Child Rights Act, Dholpur in Sessions Case No. 75/2019, and has been sentenced to undergo twenty years' rigorous



imprisonment along with a fine of Rs. 50,000/- and in default of payment of fine, one year simple imprisonment.

3. Learned counsel appearing on behalf of the applicant submits that the 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 and proper perspective as there exists material contradictions, omissions and improvements in the statements of the victim and other prosecution witnesses. Counsel submits that the medical experts have stated in their testimony that the injury sustained by the victim could also have been caused by a fall on a wooden stick. Counsel submits that in view of the testimony of the medical experts, possibility of the victim having sustained the injury by falling cannot be ruled out. It is further contended that there is no cogent evidence available on record regarding the age of the victim. It is submitted that the applicant remained on bail throughout the trial and there is no allegation that he ever misused the liberty of bail or attempted to interfere with the course of justice. The applicant is in judicial custody since the date of judgment i.e., 06.07.2023 and looking to the large pendency of criminal appeals before this Court, there is no immediate prospect of this appeal being heard and disposed of in near future. Counsel further submits that in these circumstances, it is urged that the execution of sentence imposed upon the applicant deserves to be suspended during the pendency of appeal.

4. Per contra, learned Public Prosecutor assisted by learned counsel for the complainant has opposed the application for



suspension of sentence. It is submitted that the trial Court has rightly recorded the conviction of the applicant after meticulously appreciating the evidence available on record. It is submitted that the victim, who was about eight years of age at the time of the alleged incident has levelled specific allegations against the applicant. It is submitted that the allegations are duly corroborated by the testimony of the medical experts as well as the FSL report, which reveals the presence of semen on the vaginal swab and vaginal smear slide of the victim. Counsel submits that at the time of the victim's medical examination, a stitch wound measuring approximately one inch in length was found extending from the introitus towards the anus. It is submitted that a bare perusal of the testimony of the medical experts reveals the absence of axillary and pubic hair, which establishes that the victim was a minor at the time of the alleged incident. Counsel submits that considering the nature and gravity of offence, no case for suspension of sentence is made out against the applicant.

5. Upon consideration of the arguments advanced on behalf of the learned counsel for the parties and having regard to the facts and circumstances of the case and considering the material available on record including the judgment passed by the learned trial Court, especially considering that the victim who was eight years of age at the time of the alleged incident has levelled specific allegations against the applicant, as also considering the medical evidence as well as FSL report which indicates presence of semen on the vaginal swab and vaginal smear slide of the victim,



and merely because the hearing of appeal may take considerable time cannot, by itself, constitute sufficient ground for suspension of sentence thus, looking to the nature and gravity of offence, this Court does not find any exceptional circumstance warranting exercise of discretion in favour of the applicant.

6. Accordingly, the present application for suspension of sentence filed by the applicant stands dismissed.

(ANIL KUMAR UPMAN),J