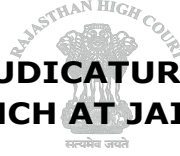




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Misc. Second (Suspension of Sentence) Application
No. 1855/2025

In

S.B. Criminal Appeal No.74/2023

Pawan son of Chhitar Lal, age 25 Years, Resident of Kotdi (Patheda), Police Station Baran Sadar, District Baran (Rajasthan), (At present confined in District Jail Baran).

-----Petitioner

Versus

State of Rajasthan, through PP

-----Respondent

For Petitioner(s)	:	Mr. Ashvin Garg
For Respondent(s)	:	Ms. Arti Sharma, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

04/05/2026

1. Heard learned counsel for the appellant-applicant and learned State counsel on the second suspension of sentence application.
2. The appellant-applicant herein has been convicted for offences punishable under Sections 454 & 376 of IPC and Section 3/4 of Protection of Children from Sexual Offences Act, 2012 vide judgment dated 25.11.2022 passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 and Child Right Protection Commission Act, 2005, No.2, Baran (Raj.) in



Sessions Case No. 81/2020 (CIS No.109/2020) and has been sentenced to maximum punishment of twenty years.

3. The first application for suspension of execution of sentence filed by the appellant-applicant was dismissed by this Court vide order dated 02.09.2024 while giving liberty to renew the prayer for suspension of execution of sentence if appeal is not heard finally on or before 31.08.2025. Now, this second 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. Counsel submits that perusal of the file would reveal that appeal was never listed for final hearing after dismissal of first application for suspension of execution of sentence and till date, appellant-applicant has suffered incarceration of more than six years. Counsel submits that samples collected during the course of investigation was sent to the FSL after a delay of about two months for which no plausible explanation is available on record. Counsel submits that it has been stated by the victim as well as her parents in their testimony that victim sustained injuries however, medical evidence does not corroborate the same. Counsel submits that there is no immediate prospect of this appeal being heard and disposed of in near future. 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. Counsel relies upon the judgment passed by Hon'ble Supreme Court in **Special Leave to Appeal (Crl.) No.5636/2024** titled as **Zameer versus The State of Karnataka** wherein after considering the period of incarceration, benefit of suspension of execution of sentence was granted to the accused.

5. Learned State counsel opposes the submissions advanced on behalf of the appellant-applicant and submits that after rejection of first application for suspension of execution of sentence, there is no material change in the circumstances. She submits that victim/complainant has duly been informed about hearing of this second application for suspension of execution of sentence.

6. Despite information, no one has put in appearance on behalf of the victim/complainant.

7. 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, especially the fact that appellant-applicant has already suffered incarceration of more than six 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.

8. Accordingly, this second application for suspension of



sentence filed under Section 430 BNSS is allowed and it is ordered that the sentences passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 and Child Right Protection Commission Act, 2005, No.2, Baran (Raj.) vide judgment dated 25.11.2022 in Sessions Case No. 81/2020 (CIS No.109/2020) against the appellant-applicant **Pawan son of Chhitar Lal** 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 04.06.2026 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.

9. 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

LALIT MOHAN /3