

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Misc. Suspension Of Sentence Application No.
2199/2025

In

S.B.Criminal Appeal No. 2089/2024
URN: SOSA / 4220U / 2025

Sewaram S/o Motiram, Residence Siyako Ki Dhani, Khedi Salla,
Police Station Gachhipura, Distt. Nagour. (Raj.) (Appellant In Sub
Jail Beawar)

----Accused-Applicant

Versus

State Of Rajasthan, Through P.p.

-----Respondent

For Petitioner(s)	:	Mr. Ali Mohammed Khan Ms. Drishti Mishra
For Respondent(s)	:	Mr. Amit Punia,PP Mr. Rajendra Singh,PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

01/07/2026

1. Heard learned counsel for the applicant-appellant as well as learned Public Prosecutor and perused the material available on record and the judgment of conviction passed by the trial Court.
2. The appellant-applicant herein has been convicted for offences punishable under Section 8/15 of NDPS Act, 1985 vide judgment dated 22.07.2024 passed by the learned Special Judge, NDPS Cases and Additional District Judge No.1, Beawar, District Ajmer in Sessions Case No.13/2021 (CIS No.13/2021) and has been sentenced to twelve years of rigorous imprisonment .

3. Learned counsel for the applicant submits that learned trial Court has committed serious error in convicting and sentencing the appellant as mentioned above. Learned trial Court has not appreciated the evidence in right and correct perspective. Counsel submits that execution of sentence of co-accused Rajpal has already been suspended by the co-ordinate Bench vide order dated 09.02.2026 and the case of the present appellant is similar to that of the co-accused. Counsel submits that applicant has already been suffered incarceration of more than 4 years and 11 months and there is no criminal antecedent against him. Counsel further submits that admittedly, there is total non-compliance of Sections 42 and 52A of NDPS Act, as the samples sent to the FSL were not drawn in the presence of a Jurisdictional Magistrate. Counsel submits that looking to the large pendency of criminal appeals before this Court, appellant-applicant will serve the entire sentence till the time appeal will come for hearing. It is contended that during the course of trial, applicant was on bail and there is no allegation against the appellant-applicant of misusing the liberty of bail granted during the course of trial. In these circumstances, learned counsel for the appellant-applicant submits that this application for suspension of execution of sentence may be allowed.

4. Learned State counsel opposes the submissions advanced on behalf of the appellant-applicant and submits that the learned trial court has not committed any error in convicting the accused-applicant.

5. 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 almost 4 years and 11 month, 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 execution of sentences awarded to the appellant-applicant during pendency of the appeal.

6. Accordingly, this 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, NDPS Cases & Additional District Judge No.1, Beawar, District Ajmer in Sessions Case No.13/2021 (CIS No.13/2021) against the appellant-applicant **Sewaram S/o Motiram**, 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.5,00,000/- with two sureties of Rs.2,50,000/- each to the satisfaction of the learned trial Judge for his appearance in the Court on 31.07.2026 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.

7. 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 or commit any other offence, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

(ANIL KUMAR UPMAN),J