HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 1246/2024
URN: SOSA / 2161U / 2024

Indrajeet S/o Ramdayal, Aged About 29 Years, R/o Ramanagar, Ps Bhanwargarh, Dist. Baran (Raj.) (Appellant /accused Presently Confined In Baran Dist. Jail)

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s)	:	Mr. Buddhi Prakash Meena
For Respondent(s)	:	Mr. Amit Punia, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

02/07/2026

1. Heard learned counsel for the applicant as well as learned State counsel and perused the material available on record.

2. The applicant herein has been convicted for offences punishable under Sections 363 & 506 of IPC and Section 5(m)/6 of Protection of Children from Sexual Offences Act, 2012 vide judgment dated 06.01.2024 passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 and Commission for Protection of Child Right Act, 2005, No.1, Baran (Raj.) in Sessions Case No. 09/2022 (CIS No.18/2022) and has been sentenced to maximum punishment of twenty years.

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. Counsel submits that the learned trial Court failed to properly appreciate the testimony of DW-1, who was serving as a counsellor with the Child Welfare Committee. It has been stated by the counsellor that immediately after the alleged incident, she conducted counselling sessions with the victim, who was about 12 years of age at the relevant time. During these sessions, the victim categorically stated that she had refused to undergo medical examination because the applicant had not committed any sexual act upon her. Counsel submits that it is an admitted position that no medical examination of the victim was conducted, as she declined to undergo the same on two occasions. Counsel submits that the victim cannot be regarded as a trustworthy witness as she has changed her version at every stage of the proceedings. Counsel submits that during the course of trial, victim stated that she was sexually abused in a room however, during her sessions with the Child Welfare Counsellor, she stated that she was sexually abused by the applicant in a field and then during cross examination she stated that no wrong was committed upon her by the applicant. Counsel further submits that the oral allegations made by the victim are not corroborated by any independent evidence or medical evidence. Counsel submits that the applicant has undergone incarceration for more than four years and six months 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. Learned State counsel opposes the submissions advanced on behalf of the applicant. It is submitted that the trial Court has rightly recorded the conviction of the applicant as at the time of the alleged incident, victim was below eighteen years of age. Counsel further submits that the victim/complainant has duly been informed about hearing of this application for suspension of execution of sentence.

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

6. Upon a consideration of the arguments advanced on behalf of the 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 considering the testimony of victim, as also considering the fact that the applicant has undergone incarceration for more than four years and six months 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, this Court is of the considered opinion that the applicant 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 applicant during pendency of the appeal.

7. Accordingly, this 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 Commission for Protection of Child Right Act, 2005, No.1, Baran (Raj.) vide judgment dated 06.01.2024 in Sessions Case No. 09/2022 (CIS No.18/2022) against the applicant **Indrajeet S/o Ramdayal** 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 02.08.2026 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

31/ Manoj Solanki