HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 1212/2025
CNR: RJHC010527662025 | URN: SOSA / 2484U / 2025

Govind S/o Gattu Moniya, Aged About 27 Years, R/o Moradi Village, C Hitari Police Station, District Dungarpur. (Lodged In Central Jail Udaipur)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. Veer Bajrang
For Respondent(s)	:	Mr. Rajesh Bhati, PP

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

07/08/2026

1. The appellant-applicant herein has been convicted and sentenced vide judgment dated 31.08.2017 passed by the learned Additional Session Judge, Sagwara, District Dungarpur in Sessions Case No.10/2016 for the offence under Section 302 IPC.

2. The appellant-applicant has preferred this second application for suspension of sentence under Section 389 Cr.P.C. for suspension of sentences during the pendency of the appeal and for release on bail.

3. The only plea raised by learned counsel for the appellant-applicant is that as the applicant has already undergone sentence of 10 years, 6 months and 6 days as on 07.08.2026 and there is no chance of hearing of the appeal in near future, thus, in view of

the directions of the Hon'ble Supreme Court dated 15.09.2022 in *Sonadhar* v. *The State of Chhattisgarh* : SLP (Crl.) No.529/2021, the sentence of the applicant be suspended and he be enlarged on bail.

4. Further submissions have been made that there are no reasons and / or extenuating circumstances for denial of bail. Submissions have also been made with reference to order dated 05.10.2021 in *Saudan Singh* v. *The State of Uttar Pradesh* : SLP (Crl.) No.4633/2021, wherein also observations have been made regarding grant of bail in the appeal at the High Court stage except certain exceptions and that none of the exceptions are applicable in the present case.

5. Learned Public Prosecutor opposed the application for suspension of sentence with the submission that as the appellant-applicant has committed heinous offence, suspension of sentence of such offender would send adverse message in the society. However, he has not denied that the appellant-applicant has already undergone sentence of 10 years, 6 months and 6 days as on 07.08.2026 during trial and after sentence.

5.1 The custody certificate furnished by the learned Public Prosecutor is taken on record.

6. We have considered the submissions made by learned counsel for the parties and have perused the material available on record.

7. Looking to the fact that criminal appeals pertaining to year 2017 also are pending for hearing, there is no likelihood of hearing of the present appeal in near future.

8. The Hon'ble Supreme Court in the case of Saudan Singh (supra) observed an exception, which could be a broad guideline, which reads as follows :-

> *"1. Heinous nature of crime :*
> *(a) Prohibited categories : To ensure public peace and the well-being of the society, life convicts who are hardened criminals, repeat offenders, kidnappers, in crimes related to massacre (three or more than three murders), habitual criminals, and fall in prohibited categories as per the U.P. Jail Standing Policy- no bail should be granted. "*

9. The Hon’ble Supreme Court in the case of Sonadhar (supra), while dealing with SMW (Crl.) No.4/2021 pertaining to ‘life convicts in jail whose appeals are pending before the High Court’ inter-alia, issued the following directions :-

> “We consider appropriate to issue directions in terms of the aforesaid suggestions to the Patna High Court and on a *pari materia* basis to even the other High Courts. However, in order to carry out this exercise, the data would have to be compiled of such of the persons who have been in custody for more than 10 years and more than 14 years, with these persons being considered for grant of bail pending appeal, if there is no chance of hearing of the appeal in the near future, unless there are reasons for denial of bail. We can understand if any of the parties is delaying the appeal itself but short of that, we are of the view that all persons who have completed 10 years of sentence and appeal is not in proximity of hearing with no extenuating circumstances should be enlarged on bail.”

10. Prior to that in the case of Saudan Singh (supra) also observations were made regarding grant of bail in cases where convicts have undergone sentence for sufficiently long time and appeals were pending at the High Court stage with exceptions indicated therein.

11. In the present case as observed herein-before, the appellant-applicant has already undergone sentence for more than 10 years and apparently, there are no chances of hearing of the present appeal in near future. Except for the fact that the appellant-applicant was involved in offence leading to his conviction for life, nothing has been brought on record by way of extenuating circumstances for denial of suspension of sentences.

12. Consequently, following the order in the case of Sonadhar (supra) and observations made in Saudan Singh (supra), without making any observations on merits of the case only on account of the fact that more than 10 years' sentences has already been undergone by the appellant-applicant, we are inclined to suspend the substantive sentences of the appellant-applicant during the pendency of the appeal.

13. Accordingly, the instant application for suspension of sentences filed under Section 389 Cr.P.C. is allowed and it is ordered that substantive sentence passed by learned Additional Session Judge, Sangwara, District Dungarpur in Session Case No.10/2016 against the appellant-applicant, **Govind S/o Gattu Moniya** 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.50,000/- each with two sureties of Rs.25,000/- each to the satisfaction of learned trial Judge for their appearance in this court on **10.09.2026** and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:

1. That they will appear before the trial court in the month of January of every year till the appeal is decided.
2. That if the applicants change the place of residence, they will give in writing their 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.

14. The learned trial court shall keep the record of attendance of the accused-applicants in a separate file. Such file be registered as Criminal Misc. Case relating to original case in which the accused-applicants were tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not been taken into account for statistical purpose relating to pendency and disposal of the cases in the trial court. In case the said accused-applicants do not appear before the trial court, learned trial Judge shall report the matter to the High Court for cancellation of bail.

(PRAVEER BHATNAGAR),J (DR.PUSHPENDRA SINGH BHATI),J

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