HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 519/2026
CNR: RJHC011052102025 | URN: SOSA / 1072U / 2026

Kailash S/o Suresh, Aged About 26 Years, R/o Padawas, Police Station Beghu, Dist. Chittorgarh (Raj.) (At Present Lodged In District Jail, Chittorgarh)

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Ravi Kumar Vaishnav S/o Mohandas Vaishnav, Resident Of Shivpura, Police Station Beghu, District Chittorgarh(Raj.).

----Respondents

For Petitioner(s)	:	Mr. Zeeshan Ali Mr. Aslam Khan
For Respondent(s)	:	Mr. Rajesh Bhati, PP

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE BHUWAN GOYAL

Order

06/08/2026

1. The present application has been filed by the applicant under Section 389 of the Cr.P.C. (430 of BNSS, 2023) seeking suspension of sentence awarded to him by the learned Additional District & Sessions Judge, Beghu District Chittorgarh (hereinafter referred to as 'trial Court') vide judgment dated 18.04.2024 passed in Session Case No.119/2021 whereby following sentences have been awarded against the accused-applicant.

S.No	Offence	Sentence	Fine
1.	376D IPC	Life imprisonment	To pay a fine of Rs.5,00,000/-; in default thereof to further undergo three years' simple imprisonment
2.	395 IPC	Life imprisonment	To pay a fine of Rs.50,000/-; in default thereof to further undergo one year's simple imprisonment

2. Learned counsel for the applicant-appellant submits that for an incident occurred on 30.07.2018, an FIR being FIR No. 106 was registered on 31.07.2018 by the complainant Ravi Kumar alleging offence under Sections 143, 341, 323 and 384 IPC, however, later on that was registered under Section 395 and for other sections. There was no allegation of rape in the earlier FIR, however, after 8 days i.e. on 08.08.2018, one more FIR of the same incident was registered in which the allegation of rape against the wife of the complainant was made. Learned counsel further submits that it is conspicuously silent as to why the complainant has lodged two different FIRs under different sections for one incident. Learned counsel further submits that even during the identification parade Dhapu-wife of the complainant has failed to identify the present applicant. Learned counsel submits that as per Exhibit-P23, even the recovery of a Mandaliya is also doubtful as in the recovery memo, it is mentioned that the same has been recovered from the present applicant, however, in the statement of PW1-Dhapu, she has stated that the Mandaliya, which has been recovered from the present applicant was provided by her to the police. Learned counsel further submits that even as per the FSL report, the DNA

of the applicant is not matching. Learned counsel, therefore submits that the present applicant has been falsely implicated in the present case. He, therefore, prays that the sentence awarded to present applicant-appellant may be suspended during pendency of the present appeal.

3. *Per contra*, learned Public Prosecutor opposed the submissions made by learned counsel for the appellant-applicant.

4. We have considered the submissions made at the Bar and have gone through the relevant record of the case.

5. In the considered opinion of this Court, without commenting on the merit and demerit of the case, this Court deems it appropriate to suspend the sentence of the applicant-appellant.

6. Accordingly, the application for suspension of sentence filed by the applicant-appellant is hereby allowed. It is ordered that the sentence passed by the learned Additional District & Sessions Judge, Beghu District Chittorgarh vide judgment dated 18.04.2024 passed in Session Case No.119/2021 against the applicant – **Kailash S/o Suresh** 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/- each with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his appearance in this Court on 07.09.2026 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

> (i) That he will appear before the trial Court in the month of January of every year till the appeal is decided.
> (ii) 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.
(iii) Similarly, if the sureties change their address, 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, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

8. Needless to state that the observations made hereinabove in relation to guilt or otherwise of the applicant is prima-facie opinion considering the material to the extent necessary for the purpose of consideration of instant application. None of the parties shall rely upon the findings or observations made herein at the time of arguing final hearing of the appeal.

(BHUWAN GOYAL),J **(VINIT KUMAR MATHUR),J**

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