



[2026:RJ-JD:27105-DB]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal)
No. 583/2026

[REDACTED]
[REDACTED] (Presently Lodged In Central
Jail Bikaner)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : Mr. Kalu Ram Bhati
For Respondent(s) : Mr. Rajesh Bahti, AGA

HON'BLE MR. JUSTICE FARJAND ALI (VACATION JUDGE)**HON'BLE MR. JUSTICE SUNIL BENIWAL (VACATION JUDGE)****Order****12/06/2026**

1. The instant 3rd application for suspension of sentence has been moved on behalf of the applicant in the matter of judgment dated 11.10.2023 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Cases, Churu, in Sessions Case No. 219/2018, whereby he was convicted and sentenced to suffer maximum imprisonment of LI along with a fine of Rs.20,000/- under Sections 302/34 of IPC and lesser punishment for the other offences under Sections 341, 323/34 of IPC and 4/25 Arms Act,.
2. Learned counsel for the appellant submits that the trial court failed to properly appreciate the legal and factual aspects,



resulting in an erroneous finding of guilt. Being the first appellate court, this Court may reappraise the evidence. It is further submitted that the appellant remained on bail during trial without misuse of liberty, and as the appeal will take time for disposal, the sentence deserves to be suspended.

3. Learned Public Prosecutor has opposed the prayer for suspension of sentence.
4. Heard learned counsel for the parties and perused the material available on record.
5. The distinction between grant of bail under Section 439 CrPC (corresponding to Section 483 BNSS)and suspension of sentence under Section 389 CrPC (corresponding to Section 430 BNSS)is well settled. While the former operates at the pre-conviction stage, the latter comes into play post-conviction and requires the appellate court to assess, prima facie, the sustainability of the conviction and sentence under challenge.
6. Upon conviction, the presumption of innocence stands displaced; however, while considering suspension of sentence, the appellate court is required to evaluate whether the grounds raised in appeal disclose a substantial and arguable case. If the material on record suggests that the findings of the trial court may be debatable, the discretion under Section 389 CrPC (corresponding to Section 430 BNSS) can be justifiably invoked. Where the appeal raises issues which, on prima facie consideration, indicate a reasonable possibility of success, including reversal or



modification of conviction, the sentence may be suspended pending adjudication.

7. This Court is guided by the enunciation of law by the Hon'ble Supreme Court in ***Muna Bisoi v. State of Odisha (February 16, 2026)*** , wherein it has been held that prolonged pendency of criminal appeals, not attributable to the convict, constitutes a valid ground for suspension of sentence. Reliance has also been placed on ***Kashmira Singh v. State of Punjab (1977) 4 SCC 291*** , wherein the Supreme Court deprecated continued incarceration of convicts for long periods during pendency of appeals, observing that such practice would amount to a travesty of justice.
8. It is equally settled that while considering such application, the appellate court is not required to record conclusive findings on merits, as that would prejudice the final adjudication. A prima facie satisfaction regarding the arguability and substance of the grounds would suffice. The appellate jurisdiction being a continuation of trial, the entire evidence remains open to re-appreciation. The court may ultimately affirm, modify, or set aside the conviction, or alter the sentence, depending upon the outcome of such re-evaluation.
9. Additionally, even where conviction is sustained, the nature of offence or quantum of sentence may warrant reconsideration at the appellate stage, which further justifies a liberal approach in appropriate cases. This Court cannot lose sight of the fact that it is burdened with a large number





of pending criminal appeals, and the likelihood of their early disposal remains uncertain. In such circumstances, continued incarceration, despite arguable grounds in appeal, would not be justified, particularly when delay is not attributable to the appellant.

10. In the present case, the appellant has raised substantial grounds assailing the findings recorded by the learned trial court. Without expressing any conclusive opinion on the merits of the appeal, this Court finds that the issues canvassed require detailed examination and re-appreciation of the entire evidence during final hearing.

11. Apart from the merits of the appeal, there exists an additional and exceptionally compelling circumstance which weighs heavily with this Court while considering the present application, namely, the grave and undisputed medical condition of the appellant. The record reveals that on earlier occasions the appellant had approached this Court by way of applications seeking suspension of sentence. The coordinate Benches, while consciously refraining from entering into the merits of the conviction, repeatedly granted temporary suspension of sentence and interim bail solely on account of the medical emergency confronting the appellant. It is also apparent from the orders passed earlier that the coordinate Benches considered the medical condition of the appellant to be of such seriousness as to warrant repeated temporary release and further observed that the prayer for regular suspension of sentence would appropriately fall for consideration before the regular roster Bench.



12. The factual position regarding the appellant's ailment remains substantially uncontroverted. The material placed on record, including the reports of the Medical Board constituted at SMS Hospital, Jaipur, demonstrates that the appellant has been suffering from Guillain-Barré Syndrome (GBS), particularly the severe AMSAN variant, coupled with serious spinal complications requiring surgical intervention. The appellant underwent major neurosurgical procedures, including laminectomy and discectomy, and thereafter developed significant neurological deficits necessitating prolonged hospitalization, physiotherapy, supportive care, and continuous medical supervision.
13. Guillain-Barré Syndrome is a rare but potentially life-threatening neurological disorder in which the body's immune system mistakenly attacks the peripheral nervous system. The disease progressively impairs the transmission of nerve impulses from the brain and spinal cord to the muscles and vital organs. The consequences are often devastating, manifesting in rapidly advancing muscular weakness, loss of motor functions, sensory deficits, bowel and bladder involvement, partial or complete paralysis of limbs, and, in severe cases, impairment of respiratory functions. The medical literature placed on record further indicates that recovery from the disease is frequently prolonged, uncertain, and dependent upon sustained rehabilitative care and constant physical assistance. Patients afflicted with advanced forms of GBS often become



substantially dependent upon caregivers for routine daily activities and may remain bedridden for extended periods.

14. The Medical Board report available on record records significant neurological impairment, diminished motor power, weakness in upper and lower limbs, sensory involvement, and the continuing requirement of physiotherapy and supportive treatment. The material further reveals that the appellant has a history of serious cardiac ailments for which cauterization procedures were undertaken and two stents were implanted. It has additionally been brought to the notice of the Court that his blood pressure continues to fluctuate considerably, thereby aggravating an already precarious medical condition.
15. The history of the proceedings further reveals that during the course of trial the appellant was released on interim relief on numerous occasions on medical grounds and, even after conviction, temporary suspension of sentence was granted repeatedly owing to the persistence of his medical condition. The record reflects that the appellant was enlarged on interim relief approximately thirteen times during the pendency of trial and on four occasions after conviction. Significantly, there is no allegation that the liberty so granted was ever misused. On each occasion the appellant surrendered before the concerned authorities in compliance with the orders of the Court.
16. This Court is conscious that incarceration follows a valid conviction and that medical ailments alone do not automatically entitle a convict to suspension of sentence.





Nevertheless, constitutional courts cannot remain oblivious to the humanitarian dimension of criminal justice. The administration of justice is not divorced from considerations of human dignity. Where the material demonstrates that a convict is afflicted with a progressive neurological disorder which substantially diminishes his physical capacities and renders him dependent upon continuous care and assistance, the Court is required to balance the demands of criminal justice with the constitutional obligation to preserve human dignity.

17. In the peculiar facts of the present case, this Court is not persuaded that the appellant should be compelled to remain in circumstances where his physical condition renders him virtually immobile and dependent upon others for his day-to-day existence. The humanitarian concern assumes greater significance when the ailment is of such severity that continued confinement may deprive the appellant of the comfort, emotional support, and constant personal care which only family members can ordinarily provide. The question is not merely of medical treatment, but also of ensuring a humane and dignified existence during the pendency of the appeal.
18. Looking to the seriousness of the neurological disorder suffered by the appellant, the previous surgical interventions undergone by him, the implantation of cardiac stents, the continuing fluctuation in blood pressure, the repeated grants of interim relief on medical grounds by coordinate Benches, the absence of any allegation regarding misuse of liberty, the





arguable issues raised in the appeal, and the likelihood that the appeal may not be heard in the immediate future owing to pendency of old criminal appeals, this Court is of the considered view that the present case constitutes an exceptional circumstance warranting exercise of discretion under Section 389 Cr.P.C. It would be inconsistent with the humanitarian ethos underlying our constitutional framework to leave a person afflicted with such debilitating ailments to suffer unnecessary agony when appropriate conditions can adequately secure his presence during the pendency of the appeal.

19. The issues raised are significant and merit consideration. If accepted, they may result in acquittal. They require proper examination and re-appreciation of evidence, with a fair possibility of benefit to the appellant.
20. Accordingly, the application for suspension of sentence filed under Section 389 Cr.P.C. (corresponding to Section 430 BNSS) is allowed and it is ordered that the sentence passed by learned trial court, the details of which are provided in the first para of this order, against the appellant-applicant named above 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/-with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge 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.

21. 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.

(SUNIL BENIWAL ,VJ

(FARJAND ALI ,VJ

21-Mamta/-

