



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

S.B. Criminal Stay No. 10247/2026

CNR: RJHC011072922026 | URN: RSTAY / 18212U / 2026

Bhanwar Singh S/o Shiv Singh, Aged About 36 Years, R/o-
Sirodi, Ps- Anadara, District- Sirohi, Rajasthan.

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Suresh Kumbhat
Mr. Nishant Bora
Mr. Sheetal Kumbhat
For Respondent(s) : Mr. NS Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

26/10/2026

1. The instant application has been filed against the order dated 20.09.2013 passed by the learned Additional Sessions Judge, Bhinmal (Jalore) in Sessions Case No.38/2011 passed seeking stay on the judgment of conviction.
2. It is contended that though the substantive sentence awarded by the learned trial Court had been suspended way back by a co-ordinate Bench of this Court on 18.10.2013 but the appeal is pending consideration since the year 2013 and there appears no likelihood of hearing of the same in a near future due to voluminous pendency before this Court and the appellant is always eager to argue the appeal on merits which is based on solid grounds. It is further argued that the judgment of conviction has arrived at on misappreciation of evidence whereas the checks and



balances available on record were not considered. The appellant is desirous to contest the upcoming Panchayati Election but due to the judgment of conviction operative against him, he is not eligible to contest, therefore, it is urged that either the appeal be heard finally or the judgment of conviction and finding of guilt be stayed till disposal of the appeal.

3. Per contra, learned Public Prosecutor argues that the finding of guilt arrived at by the learned trial Court does not require interference. Yet, he echoes the voice of the appellant on this aspect that due to voluminous pendency before this Court, the appeal is not likely to be taken up for hearing in a near future.

4. Heard and considered the submissions made by the learned counsel for the appellant and the learned Public Prosecutor.

5. The power to stay the operation of conviction is an extraordinary power and ought to be exercised sparingly, in exceptional circumstances and for reasons to be recorded. The Court is required to examine the broad features of the case on merits, the prima facie sustainability of the conviction, and the specific consequences that may ensue if the conviction is not stayed. Such power cannot be exercised mechanically, merely because an appeal against conviction has been preferred.

5.1 The law with regard to conviction of stay is well defined through the plethora of judicial pronouncements made by Hon'ble the Supreme Court time and again and this Court is conscious and aptly guided by the judgments, particularly, in the case of **Navjot Singh Sidhu Vs. State of Punjab & Anr.** reported in **AIR 2007 SC 1003**, **Ravi Kant S. Patil Lal Vs. Sarvabhuma S. Bagali** reported in **2006 (1) SC 578** **Lalsai Khunte Vs. Nirmal Sinha**



& Ors. reported in **2007 (9) SCC 330**. Thus, this Court proceeded to go through the record of the case. The appellant has been convicted for committing an offence under Sections 366, 451 and 323/34 of IPC vide order dated 20.09.2013. The maximum seven years' rigorous imprisonment has been awarded to him under Section 366 of IPC. There are allegations that the victim 'A' (P.W.- 13) was abducted when she was at the house of Smt. Hans Kanwar. As per her, she was forcibly taken away. The material improvement and discrepancies have been pointed out by the learned counsel for the appellant in her statement and I am of the opinion that for the purpose of examining the sustainability of guilt of the accused appellant, her testimony requires a further critical appreciation in light of the other material available on record.

5.2 This Court has minutely gone through the statement of P.W.- 7 (Smt. Hans Kanwar) who as per prosecutrix herself was available when the offence of abduction was committed. A gross conflict is easily noticeable in between her statement and the statement of the victim. The prime witness Bhanwar Singh, husband of P.W. 7, has not been produced by the prosecution, who in my opinion was supposed to be produced in light of the statement of victim recorded on 09.02.2009 which was tendered into evidence as Ex.- D/6. Even a glimpse over it having reflection of the fact that she made a call to the principal accused - Praveen Singh through the mobile stating that her engagement with him was discontinued and asked him to come and take her away expressing her willingness to accompany him.

5.3 This Court has also gone through Ex.-D/4, the affidavit of Akash Kumar and Ex.-D/5, the application for registration of



marriage moved before marriage Registration Officer, Sirodi where the photographs of principal accused Praveen Singh and the victim are affixed. The submission that in light of the serious dent put on the case of the prosecution, the appellant has every chance of success in appeal and he may get acquittal. This Court also feels force in the above submission in the fact situation of the case that the appellant is very much desirous to contest the upcoming Panchayati Election and he should not be deprived owing to the simple reason that the appeal is not going to be taken up for hearing in a near future.

6. In the facts and circumstances of the case, the instant application is allowed. The judgment of conviction shall remain inoperative/stayed till disposal of the final appeal. The applicant Bhanwar Singh shall not be treated disentitled for the sole reason of pendency of appeal before this Court, if he is otherwise eligible to contest.

(FARJAND ALI),J

Crt_20 (1763) (1763)
T1S-A/171
Divya Daiya