



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

D.B. Criminal Misc. Third Suspension Of Sentence Application
(Appeal) No. 220/2022

Asharam @ Ashumal S/o Sh. Thewardas, Aged About 83 Years,
B/c Sindhi, R/o Sant Shri Asharam Babu Ashram, Motera Road,
Sabarmati, P.s. Chandkheda, Dist. Ahmedabad (Guj.). (Presently
Lodged In Central Jail, Jodhpur For 9 Years 3 Months 22 Days
(With Remission)).

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent



For Petitioner(s)

: Mr. Devadatt Kamat, Sr. Advocate
assisted by Mr. Rajesh Inamdar
Mr. R.S. Saluja

For Respondent(s)

: Mr. Anil Joshi, AAG
Mr. R.R. Chhaperwal, PP
Mr. P.C. Solanki for the Complainant

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**

Order

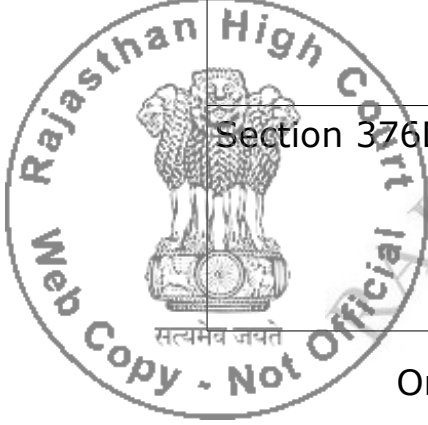
07/07/2022

Heard learned counsel for the appellant-applicant,
learned Public Prosecutor and learned counsel for the complainant.
Perused the material available on record.

This is the third application for suspension of sentences
filed on behalf of the appellant Asharam @ Ashumal, who has
been convicted and sentenced as below vide judgment dated
25.04.2018 passed by the learned Judge, Special Court, POCSO
Act Cases, Jodhpur in Sessions Case No.116/2016 (152/2013)
(NCV No.129/2016):



Offences	Sentences	Fine	Fine Default sentences
Section 370(4) IPC	10 Years' R.I.	Rs.1,00,000/-	1 Year's R.I.
Section 342 IPC	1 Year's R.I.	Rs.1,000/-	1 Month's R.I.
Section 506 IPC	1 Year's R.I.	Rs.1,000/-	1 Month's R.I.
Section 376(2)(f) IPC	Life Imprisonment (The remainder of Natural Life of the Accused)	Rs.1,00,000	1 Year's R.I.
Section 376D IPC	Life Imprisonment (The remainder of Natural Life of the Accused)	Rs.1,00,000	1 Year's R.I.



On the previous date of hearing, we had asked the learned Public Prosecutor and the learned counsel for the appellant to apprise the court regarding the status of the trial going on against the appellant in the State of Gujarat. This court is apprised that in the said case, the prosecution evidence is yet continuing. The appellant has been denied bail by the competent court at Gujarat on more than one occasions.

Learned Senior Counsel Mr. Devadatt Kamat, assisted by Mr. Rajesh Inamdar, representing the appellant, advanced the following arguments to buttress the prayer for releasing the appellant on bail :-

1. That the appellant is an old aged man of around 83 years and is suffering from numerous ailments.
2. That the order passed by this court on 10.02.2022 directing summoning of witness Mr. Ajay Pal Lamba under Section 391 CrPC



is subject matter of challenge before Hon'ble Supreme Court and thus, there is no possibility of the appeal being heard and decided.

3. That looking to the prolonged custody period suffered by the appellant, which is nearly 9 years and 7 months, he deserves indulgence of bail.

4. That from a bare perusal of the statement of the victim Mst. 'S' (P.W.5), it is writ large on the face of the record that the offences, for which the appellant has been convicted and sentenced to life imprisonment, are prima facie not made out.

Learned Public Prosecutor and the learned counsel for the complainant, on the other hand, vehemently and fervently opposed the submissions advanced by the appellant's counsel. They urged that the appeal has been listed for hearing on more than one occasions and it is the defence counsel, who have been seeking adjournments. Thus, as per the learned Public Prosecutor, the ground of delay is not available to the appellant. It is further submitted that even releasing the appellant on bail in the present appeal would serve no purpose whatsoever because the appellant continues to be in custody in the criminal trial going on at Gujarat.

We have given our thoughtful consideration to the submissions advanced at Bar and have gone through the material available on record.

A perusal of the order-sheets of the appeal would indicate that the matter was listed for hearing on more than one occasions, but adjournments have been sought by the defence for one reason or the other. Two previous applications for suspension of sentences preferred on behalf of the appellant have been



dismissed by the court after arguments had been advanced to some extent albeit by way of withdrawal. The appellant continues to be in custody in the trial going on at Gujarat.

In wake of the discussion made hereinabove; looking to the nature and gravity of the allegations, and considering the fact that the appeal itself is ripe for hearing, we are of the opinion that the appellant does not deserve indulgence of bail. Hence, the instant application for suspension of sentences is rejected as being devoid of merit.



(VINIT KUMAR MATHUR),J

(SANDEEP MEHTA),J

3-Vivek/-

