HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JASTHAN HIGH COL

S.B. Criminal Misc Suspension Of Sentence Application (Appeal) No.283/2023

IN

S.B. Criminal Appeal No. 383/2023

Mahendra Kumar Prajapat S/o Sh. Champalal, Aged About 45 Years, R/o Subhash Nagar, Near Overbridge, Pali, District Pali (Raj.)

----Appellant

Versus

State Of Rajasthan, Through PP

----Respondent

For Appellant(s) : Mr. Ajeet Singh Chouhan For Respondent(s) : Mr. A.R. Choudhary, PP

HON'BLE MR. JUSTICE FARJAND ALI

<u>Order</u>

25/04/2023

- 1. The instant application for suspension of sentence has been moved on behalf of the applicant in the matter of judgment dated 21.02.2023 passed by learned Special Judge, Prevention of Children from Sexual Offences Act Cases No.3, Pali in Sessions Case No.23/2021 whereby he was convicted and sentenced to suffer maximum punishment of two years simple imprisonment along with compensation fine of Rs.1,00,000/- under Section 67A of the Information Technology Act.
- It is contended that the learned trial Judge has not appreciated the correct, legal and factual aspects of the matter and thus, reached at an erroneous conclusion of guilt,

therefore, the same is required to be appreciated again by this Court being the first appellate Court. Hearing of the appeal is likely to take long time, therefore, the application for suspension of sentence may be granted.

- 3. Per contra, learned public prosecutor has vehemently opposed the prayer made by learned counsel for the accused-applicant for releasing the appellant on application for suspension of sentence.
- 4. Heard learned counsel for the parties and perused the material available on record.
- 5. Considering the submissions advanced at bar and looking to the totality of facts and circumstances of the case, while refraining from passing any comments on the niceties of the matter and the defects of the prosecution as the same may put an adverse effect on hearing of the appeal, this court is of the opinion that it is a fit case for suspending the sentence awarded to the accused-appellant.
- 6. Accordingly, the application for suspension of sentence filed under Section 389 Cr.P.C. is allowed and it is ordered that the sentence passed by learned Special Judge, Prevention of Children from Sexual Offences Act Cases No.3, Pali in Sessions Case No.23/2021 against the appellant-applicant Mahendra Kumar Prajapat S/o Sh. Champalal 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 for his appearance in this court on 25.05.2023 and

whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

- That he will appear before the trial Court in the month of January of every year till the appeal is decided.
- 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.

(FARJAND ALI),J

182-Ashutosh/-