

[2025:RJ-JD:2204-DB]



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

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 68/2025

Asharam Alias Ashumal S/o Shri Thewardas, Aged About 85 Years, R/o Sant Shri Asharambapu Ashram, motera Road, Sabarmati, P.s. Chandkheda, Dist Ahmedabad (Guj) (Presently Lodged In Central Jail, Jodhpur For Around 12 Years 9 Months (With Remission) As Of 06.01.2025)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

| | |
|-------------------|---|
| For Petitioner(s) | : Mr. RS Saluja, through VC Mr. Nishant Bora Mr. Acharaj Singh Mr. Yashpal Singh Rajpurohit Mr. Bharat Sain |
| For Respondent(s) | : Mr. Deepak Choudhary, AAG Mr. PC Solanki for the complainant |



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

Order

14/01/2025

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1. The present application has been filed by the applicant under section 389 of Code of Criminal Procedure, 1973, who is serving sentence and is lodged in Central Jail, Jodhpur on account of his conviction vide order dated 25.04.2018 passed by the Special Judge, POCSO Act Cases, Jodhpur in Sessions Case No.116/2016.
2. Mr. Bora, learned counsel for the applicant invited Court's attention towards the order dated 07.01.2025 which has been passed by Hon'ble the Supreme Court in Special Leave to Appeal (Crl.) No.15945/2024 in applicant's own case and submitted that



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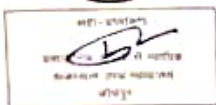
the applicant was convicted vide judgment and order dated 31.01.2023 passed by the District and Sessions Judge, Gandhinagar in Session Case No.34/2014 and the same was affirmed by High Court of Gujarat by judgment and order dated 29.08.2024 and the Special Leave to Appeal (crl.) filed by him before Hon'ble the Supreme Court for interim bail had been allowed upto 31.03.2025 on medical grounds.

3. He prayed that similar indulgence be granted to the applicant as has been granted by Hon'ble the Supreme Court in the above referred order so that he can get proper medical treatment. He submitted that the petitioner would abide by the conditions as has been imposed by Hon'ble the Supreme Court, while granting him interim bail.

4. Learned Additional Advocate General and Mr. PC Solanki, learned counsel for the complainant have vehemently opposed applicant's application for suspension of sentence, while contending that the applicant's conviction vide order dated 31.01.2023 passed by the District and Sessions Judge, Gandhinagar did not involve any offence punishable under the provisions of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act'), whereas in the present case, applicant is also convicted under the provisions of the same (POCSO Act).

5. The Hon'ble the Supreme Court while considering the applicant's case for grant of interim bail has observed thus:-

"We had already made it very clear by our earlier order dated 13.12.2024 that we are not inclined to consider the plea on merits, but only on medical ground."



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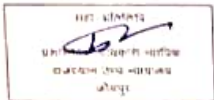


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Learned senior counsel appearing for the petitioner submits that the condition of the petitioner is precarious. The petitioner is stated to be around 86 years of age, suffering from age related ailments and has suffered two heart attacks which are not in dispute. He has been taken in and out of the prison repeatedly on more than 13 different occasions for medical treatment. It is further submitted that even the High Court had granted parole after taking into consideration the medical condition of the petitioner. The affidavit filed by the State would also establish that treatment has been given to the petitioner for heart ailment.

Learned Solicitor General appearing for the respondent submits that though the ailment is not in dispute and so also the age, treatment can be extended in the prison itself, which the petitioner is reluctant to undertake. In any case, considering the facts and circumstances of the case, adequate security will have to be provided to the petitioner. It is further submitted that, on merit, the petitioner does not have a case.



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As stated, we are not inclined to go into the merits of the case. The medical condition of the petitioner is not in dispute. It is the concern of the State and this Court to take into consideration the health condition of the petitioner-convict. In such view of the matter, we have no hesitation in holding that the petitioner does require interim bail on medical ground. The appeal is also of the year 2023. There is also some suggestion of lifestyle changes.



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We have also taken note of the medical records pertaining to the petitioner and the fact that he was given periodical treatment outside the prison.

Hence, we deem it fit to grant bail to the petitioner on medical ground till 31st March, 2025.

This order is passed, subject to the condition that the petitioner shall not meet his followers in a group.

There shall be three security personnel in the form of police officers to be present in the vicinity of the petitioner. We make it clear that the police personnel will not interfere with the petitioner's medical treatment, his meeting with any individual and in a normal or lawful conduct.

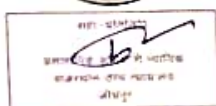
We further make it clear that the observations made in the impugned judgment on merits will not have any bearing on any future proceedings, including the criminal appeal which is pending before the High Court.

Liberty is also given to the petitioner to approach the High Court for any further need on this ground.

The Special Leave Petition stands disposed of accordingly.

Pending application(s), if any, shall also stand disposed of."

6. So far as applicant's medical condition is concerned, the same was neither disputed before Hon'ble the Supreme Court nor is the same in dispute before this Court.



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7. In view of the aforesaid, in order to maintain parity, we are inclined to grant interim bail to the applicant upto 31.03.2025 for his medical treatment on the same conditions.

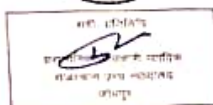
8. Mr. Bora, learned counsel undertakes that the cost of travelling, lodging and boarding of three police constable to be provided by the State authorities of Rajasthan shall be borne by the applicant, if he wants to take his treatment at any place other than Jodhpur.

9. The petitioner's release upto 31.03.2025 shall remain subject to conditions which have been imposed by Hon'ble the Supreme Court in above quoted order dated 07.01.2025.

10. The present application for suspension of sentence stands disposed of.

**(VINIT KUMAR MATHUR),J**

1-raksha/-

(DINESH MEHTA),J

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