



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

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal)
No. 1159/2026
CNR: RJHC010642612026
URN: SOSA / 2600U / 2026



Moola Ram S/o Shri Pema Ram, Aged About 33 Years, R/o
Adsinga Gaon Ki Dhani Dist. Nagaur (Presently Lodged In Open
Air Camp, Mandor Jodhpur)

-----Petitioner

Versus

State Of Rajasthan, Trough Pp

-----Respondent

For Petitioner(s)	:	Mr. Kalu Ram Bhati with Mr. Swapan Chauhan
For Respondent(s)	:	Mr. C.S. Ojha, PP Mr. Shrawan Singh Rathore, PP

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR**

Order

15/07/2026

1. The instant temporary Suspension of Sentence application has been moved against the judgment of conviction and sentence dated 19.08.2023 passed by learned Additional Sessions Judge, Jayal, Nagaur in Sessions Case No. 46/2023 whereby the applicant-appellant has been convicted for offences under Section 302, 201, 404 IPC.
2. The applicant-appellant is in custody since 16.02.2017. After due consideration by the Committee in question, the applicant-appellant was admitted to the open air camp after fulfilling the eligibility conditions and upon due recommendation as per the prescribed parameters.



3. The factual matrix of the case is that the applicant-appellant while in open air camp wants to marry another convict one Miss Seema who has already been released on bail.

4. Learned counsel for the applicant-appellant has shown the judgment rendered by this Hon'ble Court in the case of **Nand Lal Vs. State Department of Home& Ors; D.B. Criminal Writ Petition No. 10/2022** (decided on 05.04.2022), relevant paragraph of which reads as under:

"The purpose of parole is to let the convict to re-enter into the mainstream of the society peacefully after his release. *The wife of the prisoner has been deprived of her right to have progeny whilst she has not committed any offence and is not under any punishment. Thus, denial to the convict-prisoner to perform conjugal relationship with his wife more particularly for the purpose of progeny would adversely affect the rights of his wife.*

4.1. Further the Court also observed as follows:

If we see the matter with the religious aspect; as per Hindu philosophy, Garbhadhan, i.e. attaining the wealth of the womb is the first of the 16 sacraments. Scholars trace Garbhadhana rite to Vedic hymns, such as those in sections 8.35.10 through 8.35.12 of the Rigveda, where repeated prayers for progeny and prosperity are solemnized.

जां च धत्तं वि णं च धत्तम् : bestow upon us progeny and affluence. In Judaism, Christianity, and some other Abrahamic religions, the cultural mandate is the divine injunction found in Genesis 1:28, in which God, after having created the world and all in it, ascribes to humankind the tasks of filling, subduing, and ruling over the earth. The cultural mandate includes the sentence "Be fruitful and multiply and fill the Earth." The cultural mandate was given to Adam and Eve.

The preservation of lineage is also greatly emphasized by the Islamic Shariah and the Cairo declaration of human rights in Islam also supported the protection of lineage in Islam. All the articles of CDHRI covered the five basic human rights mentioned in Maqasid I Shariah. The first main objective of Maqasid I Shariah is the completion of human's





necessity; in which protection of progeny (nasl) is the foremost purpose.

*Having referred to prevalent religious philosophies, now we come to the sociological aspect of the right of progeny and preservation of lineage. As regards the right of convict is concerned, connecting the same with Hindu philosophy, there are four **Purusharths**, object of human pursuit which refer to four proper goals or aims of a human life. The four purushuarths are Dharma (righteousness, moral values) Artha (prosperity, economic values), Kama (pleasure, love, psychological values) and Moksha (liberation, spiritual values, self-actualization).*

When a convict is suffering to live in prison, he/she is deprived to perform the abovementioned purusharths, among them, 3 of four purusharths, i.e. Dharma, Artha and Moksha are to be performed alone, however, in order to perform/exercise/pursue the fourth Purushartha, i. e. Kama, the convict is dependent on his/her spouse in case he/she is married. At the same time, the innocent spouse of the convict is also deprived to pursue the same. In a case where the innocent spouse is a woman and she desires to become a mother, the responsibility of the State is more important as for a married woman, completion of womanhood requires giving birth to a child. Her womanhood gets magnified on her becoming a mother, her image gets glorified and becomes more respectful in the family as well in the society. She should not be deprived to live in a condition wherein she has to suffer living without her husband and then without having any children from her husband for no fault of her.

Hindu philosophy also advocates the importance of pitra – rin, i.e. parental debt. Our lives are the consequence of the fact that ancestors have been carrying and forwarding the said pitra rin, it is because of this, life came to us and in order to maintain the continuity of life, we must pay off this debt.

Now coming to the legal aspect of the matter at hand, Article 21 of the Constitution guarantees that no person shall be deprived of his life and personal liberty except according to procedure established by law. It includes within its ambit the prisoners also. The Supreme Court in the case of D. Bhuvan Mohan Patnaik and Others v. State of Andhra Pradesh and Others AIR 1974 SC 2092 declared that convicts cannot be denied the protection of fundamental rights which they otherwise possess, merely because of their conviction.





*In the case of **Jasvir Singh and Another v. State of Punjab 2015 Cri LJ 2282**, The case involved important questions of law regarding conjugal rights of the prisoners. The core issues in the case were (i) whether the right to procreation survives incarceration, and if so, whether such a right is traceable within our Constitutional framework? (ii) Whether penalogical interest of the State permits or ought to permit creation of facilities for the exercise of right to procreation during incarceration? (iii) Whether 'right to life' and 'personal liberty' guaranteed under Article 21 of the Constitution include the right of convicts or jail inmates to have conjugal visits or artificial insemination (in alternate)? And (iv) If question No. (iii) is answered in the affirmative, whether all categories of convicts are entitled to such rights?*

The court had ruled that the "right to procreation survives during incarceration" and "is traceable and squarely falls within the ambit of Article 21 of our Constitution". It had then directed the Punjab government to constitute a Jail Reforms Committee, to be headed by a former high court judge. Among other things, this committee was to "formulate a scheme for creation of an environment for conjugal and family visits for jail inmates and identify the categories of inmates entitled to such visits, keeping in mind the beneficial nature and reformatory goals of such facilities".

4.2 Learned counsel thus submits that vide the aforesaid order, this Hon'ble Court allowed the writ petition and the petitioner in the said case was granted emergent parole for a period of fifteen days.

4.3. Learned counsel also submits that if the present applicant-appellant is permitted to solemnize the marriage in the open air camp, it would not only enhance the process of rehabilitation and reformation but would also enable the applicant-appellant and the lady to settle down for future family.

5. Learned Public Prosecutors, Mr. C.S. Ojha and Mr. Shrawan Singh Rathore have produced the report dated 13.07.2026, which reflects that there is a live-in relationship between both of them



i.e. the present applicant-appellant and the other convict (Miss Seema who is on bail) and that they would like to have a celebration of their marriage.

5.1. The said report is taken on record.

6. Upon being specifically asked by this Court as to whether such marriage can take place in open air camp, the learned Public Prosecutors submit that such marriage can lawfully take place in open air camp, as even in emergent cases under Section 11 of the Rajasthan Prisoners Release on Parole Rules, 2021 provides for release on parole and thus the indulgence as sought for in the present case thus finds place in the jurisprudence.

7. Learned Public Prosecutors further submit that the matter be disposed of while giving liberty to conduct a marriage at the open air camp while maintaining the decorum and sanctity of the open air camp.

8. Heard learned counsel for the parties as well as perused the record of the case.

9. This Court notes that solemnization of marriage between two consenting adults is an intrinsic facet of right of life and personal liberty guaranteed under Article 21 of the Constitution of India. The institution of marriage finds recognition across all major religions and cultures and has constituted a foundational unit of society.

10. In view of the factual matrix of the case and the precedent law laid down in **Nand Lal (supra)**, and upon fair submission of learned Public Prosecutors that the State has no objection to solemnization of such marriage within the premises of the open air camp, this Court while permitting the marriage of the present



applicant-appellant with Miss Seema as prayed for in the present application, issues the following directions:

(a) Family members up to 21 persons including the persons doing the ritual shall be permitted to enter the open air camp for the ceremony during the specific time which the authorities shall modulate and finalize. If the number of such guests is to be increased, then also the authority shall be free to give permission as per their own assessment.

(b) The date of marriage shall be informed by the applicant-appellant and on such date, the necessary permission shall be granted.

(c) Any conditions which need to be imposed by the authorities for the purpose of maintaining the decorum of the open air camp may be imposed while permitting such marriage.

(d) The applicant-appellant shall bear all the costs and expenses to be incurred on such marriage/ceremony.

11. The instant application for Suspension of Sentence is disposed of accordingly.

(PRAVEER BHATNAGAR),J

(DR. PUSHPENDRA SINGH BHATI),J

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