RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Writ Petition No. 14472/2026
CNR: RJHC010669302026 | URN: CW / 26412U / 2026

Rajasthan High Court
सत्यमेव जयते
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Asha Ram Alias Ashumal S/o Late Shri Thevardas Alias Thaumal, Aged About 87 Years, R/o Sant Shri Asharamji Ashram, Motera, Ahmedabad, Gujarat 380005 (At Present Lodged In Central Jail, Jodhpur)

----Petitioner

Versus

1. State Of Rajasthan, Home Depart. Jaipur.
2. The Director General, (Jail), Jaipur.
3. The Superintendent, Central Jail, Jodhpur.

----Respondents

For Petitioner(s) : Mr. Nishant Bora
Ms. Abhilasha Bora
Mr. Prithvi Singh
Mr. Bharat Sain

For Respondent(s) : Mr. Deepak Chandak for
Mr. B.L. Bhati, AAG
Ms. Sulochana Bishnoi

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order (Oral)

05/11/2026

Per: Arun Monga, J.

1. The present writ petition has been preferred by the petitioner-convict, Asha Ram @ Ashumal S/o Late Shri Thevardas @ Thaumal, presently lodged in Central Jail, Jodhpur, seeking a direction to the respondents to transfer him to an Open Air Camp.

2. The petitioner-convict, Asha Ram @ Ashumal, was convicted by the learned Special Judge, POCSO Act Cases, Jodhpur, vide judgment dated 25.04.2018 passed in Sessions Case No.

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116/2016, and was sentenced to life imprisonment. In D.B. Criminal Appeal No. 123/2018, the appeal was partly allowed vide judgment dated 27.05.2026, whereby certain convictions were set aside, while his convictions for various offences, including those under Sections 370(4), 376(2)(f), 506 and 354A IPC and Sections 7/8 of the POCSO Act, were upheld. The petitioner has remained in custody for more than 13 years, including remission, and his conduct in jail is stated to be satisfactory.

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2.1 It is the case of the petitioner that, having undergone more than one-third of his substantive sentence, including remission, he is eligible for consideration for transfer to an Open Air Camp under the Rajasthan Prisoners Open Air Camp Rules, 1972. However, his application was rejected by the Open Air Camp Advisory Committee, Jaipur, in its meeting dated 09.09.2025, on the ground that he had been convicted for the offence under Section 376(2)(f) IPC and sentenced to life imprisonment.

3. The petitioner has, therefore, approached this Court seeking a direction for his transfer to a suitable Open Air Camp, placing reliance upon the judgment dated 11.03.2022 passed by this Court in D.B. Criminal Writ Petition No. 52/2022, Ajit Singh, wherein a similar consideration was extended to the convict concerned.

4. Learned counsel for the petitioner submits that the Open Air Camp Committee has rejected the petitioner's application for transfer to an Open Air Camp solely on the ground that he was convicted for the offence under Section 376(2)(f) IPC and sentenced to imprisonment for life, without properly considering

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the applicable provisions of the Rajasthan Prisoners Open Air Camp Rules, 1972.

4.1 He contends that the said decision suffers from gross non-application of mind and is contrary to the view taken by this Court in the case of Ajit Singh (supra), wherein a convict sentenced for an offence under Section 376 IPC was directed to be transferred to a suitable Open Air Camp.

4.2 He submits that other similarly situated prisoners, convicted for offences under Section 376 IPC and sentenced to life imprisonment, have also been transferred to Open Air Camps by the authorities, and therefore, denial of the same benefit to the petitioner is arbitrary and unsustainable.

4.3 Learned counsel further submits that the Superintendent of the Jail is the best person to assess whether the mental attitude and conduct of a prisoner have undergone a change during the period of incarceration and, in the present case, the petitioner's conduct in jail is satisfactory.

4.4 Learned counsel for the petitioner also relies upon ***Ajit Singh Vs. State of Rajasthan (D.B. Criminal Writ Petition No. 52/2022)*** decided on 11.03.2022.

4.5 Thus he contends that the petitioner deserves consideration for transfer to an Open Air Camp in accordance with the Rules of 1972 and the law laid down by this Court.

5. Per contra, the stand taken by the learned counsel for the respondents is that the petitioner is not entitled to be transferred to an Open Air Camp in view of the provisions of Rules 3(d), 3(h) and 3(a) of the Rajasthan Prisoners Open Air Camp Rules, 1972, as he falls within the categories of prisoners declared ineligible

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under the said Rules. It is submitted that the petitioner was convicted by the learned Special Court, POCSO Act Cases, Jodhpur, vide judgment dated 25.04.2018 and sentenced to imprisonment for life, meaning imprisonment for the remainder of his natural life, for various offences, including those under Sections 376 and 376D IPC. His conviction and sentence were upheld by this Court vide judgment dated 27.05.2026. It is further pointed out that the petitioner has also been convicted in another criminal case by the learned Third Additional Sessions Judge, Gandhinagar, Gujarat, vide judgment dated 31.01.2023 and sentenced to imprisonment for life for offences including those under Sections 376(2)(c) and 377 IPC, against which Criminal Appeal No. 607/2023 is pending before the High Court of Gujarat at Ahmedabad.

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5.1 It is further asserted that, upon the petitioner having undergone one-third of his sentence, including remission, his case was processed for transfer to an Open Air Camp and the proposal was forwarded to the Prison Headquarters, Jaipur vide letter dated 13.07.2025. However, the Open Air Camp Committee, in its meeting dated 09.09.2025, unanimously resolved not to recommend his transfer, observing that his convictions for offences under Sections 376 and 377 IPC and the provisions of the POCSO Act rendered him ordinarily ineligible under Rule 3(d) and also ineligible under Rule 4(a) of the Rules of 1972. The respondents have also placed reliance upon the nominal roll of the petitioner and submitted that he was never granted regular parole, though he was released on emergency parole for 12 days, from 27.08.2024 to 09.09.2024, and was also released on interim

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bail on three occasions, namely, from 14.01.2025 to 31.03.2025, from 07.04.2025 to 29.08.2025 and from 07.11.2025 to 28.05.2026. Accordingly, it is contended that the decision of the Open Air Camp Committee is in accordance with the applicable Rules and the petitioner is not entitled to the relief sought.

6. In the aforesaid backdrop, we have heard the rival contentions and gone through the case file.

7. First and foremost, we may like to note down the parametres which have been laid down by a Full Bench of this Court in ***D.B. Criminal Reference No.1/2024*** (2026:RJ-JP:40987-DB) vide a judgment dated 26.10.2026, relevant thereof is as below:-

> ***Dignity and the reformative prison administration***
> *13. The Supreme Court has repeatedly recognized that incarceration does not extinguish the constitutional personhood and dignity of a prisoner. In Sunil Batra vs. Delhi Administration[1]", their Lordships affirmed that prisoners retain constitutional rights, subject to restrictions inherent in lawful incarceration. As such, where the statutory scheme itself creates a rehabilitative mechanism, its administration should be consistent with dignity, fairness and the reformative purpose of imprisonment.*
> ***Finding***
> *14. On the basis of aforesaid analysis, we are of the considered opinion that Rule 3(d) read with Rule 4 of the Rules of 1972, neither there is absolute prohibition for admitting a prisoner to the Open Air Camp, nor there is an unrestricted entitlement to be admitted in Open Air Camp for a convict under Section 376 IPC or POCSO Act. The word 'ordinarily' must be given operative meaning. Rule 3(d) establishes the normal position that the specified category of prisoners is not eligible. Reading the meaning of the word 'ordinarily' in light of the judgment of the Supreme Court in the afore-cited judgments, 'ordinarily' does not justify treating that exclusion as absolute in every case. The appropriate legal approach is to require consideration of the individual case where the prisoner places special or exceptional circumstances before the competent authority. At the same time, the authority is entitled, and in appropriate cases required, to consider the nature and gravity of the offence, particularly in POCSO Act cases, along with the other relevant factors prescribed by the Rules.*
> ***Answer to the reference and Conclusion***
> *15. Our answer to the proposed question is as under:*
> *"A prisoner convicted under Section 376 IPC or POCSO Act is not totally ineligible for transfer to an Open Air Camp. However, such a prisoner has no automatic right to admission in Open Air Camp, and the nature and gravity of the offence including the age of the victim*

1 (1978) 4 SCC 494

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and the facts of the case are legitimate considerations for the Advisory Committee and the Advisory Committee must make an individualised, reasoned assessment of institutional conduct, reformative potential, risk and readiness for reintegration, and record its reasons for transfer to Open Air Camp, in line with direction C(i) in the matter of Suhas Chakma (supra), and where the Advisory Committee finds such a prisoner suitable, it may impose condition to protect other inmates, particularly children, and may revoke the placement on breach."

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8. In view of the aforesaid, on a Court query put to learned counsel for the respondents as to whether any decision has been taken on the administrative side after rendering of the Full Bench decision, they would submit that a decision will be taken by the competent authority within a period of three weeks in light of the aforesaid Full Bench judgment of this Court.

9. Being so, in view of the aforesaid statement, a copy of the instant order be conveyed to the competent authority who shall take an administrative decision in accordance with the judgment relied upon by the counsel for the petitioner as noted hereinabove and in case the petitioner is entitled to any allowance in view thereof, appropriate orders shall be passed.

10. With these observations, the petition stands disposed of.

11. Needful exercise be carried out within a period of three weeks as stated by counsel for the respondents with effect from the date when the instant order is uploaded on the website of this Court.

12. Pending application(s), if any, stands disposed of.

(YOGENDRA KUMAR PUROHIT),J **(ARUN MONGA),J**

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Dhananjay Sharma

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