HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension of Sentence Application No. 68/2026
CNR: RJHC020015282026 | URN: SOSA / 164U / 2026

in

D.B. Criminal Appeal No. 17/2026

Kanaram S/o Raju Swami, Aged 30 Years, R/o House No. 528, Tagore Nagar Swami Basti, Shastri Nagar, Police Station Shastri Nagar Jaipur
At Present Confined In Central Shylawas, Dausa

----Accused-Appellant-Applicant

Versus

State of Rajasthan, Through PP

----Respondent

For Applicant(s)	:	Mr. Abhimanyu Singh Sandu on behalf of Mr. Brahmanand Sandu
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, PP

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE BHUWAN GOYAL

Order

23/11/2026

This suspension of sentence application under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the accused-applicant (for brevity, "the applicant") who has been convicted and sentenced by the learned Sessions Judge, Jaipur Metropolitan-II, (for short, 'the learned trial Court') vide judgment dated 16.05.2025 passed in Sessions Case No.197/2023(CIS No.335/2023), as under:-

Section 302 IPC: Life imprisonment and fine of ₹50,000/-; in default whereof, three months' additional imprisonment.

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Learned counsel for the applicant submits that he has falsely been implicated in this case. He, therefore, prays that the suspension of sentence application be allowed.

Per contra, learned Public Prosecutor opposed the submissions and prayed for dismissal of the application.

Heard. Considered.

A perusal of the impugned judgment reflects that after appreciating the testimony of Smt. Shakuntala (PW-2), elder sister of the deceased as also wife of the elder brother of the applicant and the other ocular evidence, it was held that the applicant murdered his wife, the deceased Mamta, with a pointed weapon which was medically corroborated as is reflected from the post-mortem report of the body of the deceased (Ex.P-11) duly proved by Dr. Ajay Srivastava (PW-5) and Dr. Himmat Singh (PW-12).

Their Lordships have, in **Rajesh Upadhyay Vs. The State of Bihar and Another: Criminal Appeal No.5585/2025 (Special Leave Petition (Crl.) No.8736/2025)** decided on 18.12.2025, while cancelling the benefit of suspension of substantive sentence granted by the High Court to the accused-respondent, held as under:-

> **6.1** It is also the settled principle that the Appellate Court should not reappreciate evidence at stage of Section 389, CrPC and try to pick some lacunae or loopholes here and there in the case of prosecution. The presumption of innocence of the accused which is a principle applied in criminal jurisprudence, holds good only until the accused is

tried. Once the accused is convicted at the end of the trial, the presumption of innocence does not continue.

6.5 The dictum that the benefit of suspension of sentence, if at all to be granted in the cases involving conviction under Section 302, IPC, it has to be only in exception cases, is well settled in the catena of judgments. In Vijay Kumar v. Narender & Ors.6 it was observed that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302, IPC, the court should consider relevant factors like the nature of accusation made against the accused, the manner in which crime is alleged to have been committed and the seriousness of offence. The view was reiterated in (2002) 9 SCC 366 Ramji Prasad v. Rattan Kumar Jaiswal & Anr.7, Vasant Tukaram Pawar v. State of Marashtra8, Gomti v. Thakurdas & Ors.9."

Thus, in the backdrop of aforesaid precedential law and looking to the nature and gravity of allegations against the applicant which are found to be proved by the learned trial Court vide judgment impugned, we are not inclined to allow this application.

Accordingly, this suspension of sentence application is dismissed.

However, looking to the period of incarceration, office is directed to prepare the paper book and list the appeal for hearing thereafter.

(BHUWAN GOYAL),J (MAHENDAR KUMAR GOYAL),J

Crt_3/S-A/36/Gourav