HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension of Sentence Application (Appeal) No. 209/2026
CNR: RJHC020103902026 | URN: SOSA / 431U / 2026

In

D. B. Criminal Appeal No.51/2026

Omprakash S/o Chhitarlal, Aged About 25 Years (presently age 28 years), R/o Bindaradi, Police Station Chhabra, District Baran (Raj.).
(At Present Confined In District Jail Baran)

----Accused-Appellant-Applicant

Versus

1. State of Rajasthan, Through P.P.

Respondent

2. Ramdayal S/o Rodilal, Resident of Krishna Vihar Colony, Chhabra, Police Station Chhabra, Hhabra, District Baran.

---Complainant-Respondents

Connected With

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 505/2026
CNR: RJHC020216942026 | URN: SOSA / 965U / 2026

In

D. B. Criminal Appeal No.116/2026

Manbhar W/o Late Laddulal, Aged About 29 Years, (Present Age 32) R/o Moreli Police Station Pali District Baran.
At Present Krishna Vihar Colony Chhabra, Police Station Chhabra District Baran Rajasthan
(At Present Accused-Appellant Confined In Women Reformatory Home Kota).

----Accused-Appellant-Applicant

Versus

State of Rajasthan, Through P.P.

----Respondent

For Petitioner(s) : Mr. Jagdish Nagar with
Mr. Nikhil Sharma in D.B. Criminal Misc. Suspension of Sentence

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GOURAV DHAMIJA
Date: 2026.11.23
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Application No. 209/2026
Mr. Deepak Sharma in D.B. Criminal Misc. Suspension of Sentence Application No. 505/2026

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

These suspension of sentence applications under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 have been filed by the accused-applicants (for brevity, "the applicants") who have been convicted and sentenced by the learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Cases, Baran (for short, 'the learned trial Court') vide judgment dated 21.01.2026 passed in Sessions Case No.76/2023, CIS No.76/2023, as under:-

Accused-Applicant-Omprakash:-

Section 302/34 IPC: Life imprisonment and fine of ₹30,000/-; in default whereof, six months' additional simple imprisonment.

Section 201/34 IPC: Seven years' rigorous imprisonment and fine of ₹15,000/-; in default whereof, three months' additional simple imprisonment.

Section 3(2) (V) of SC/ST Act: Life imprisonment and fine of ₹30,000/-; in default whereof, six months' additional simple imprisonment.

Accused-Applicant-Manbhar:-

Section 302/34 IPC: Life imprisonment and fine of ₹30,000/-; in default whereof, six months' additional simple imprisonment.

Section 201/34 IPC: Seven years' rigorous imprisonment and fine of ₹15,000/-; in default whereof, three months' additional simple imprisonment.

All the substantive sentences to run concurrently.

Learned counsel for the applicant-Omprakash, inviting the attention of this Court to the cross-examination of Naitik (PW-6), son of the applicant-Manbhar and the deceased, would contend that he admitted that the quarrel took place in between the applicant-Manbhar (wife) and the deceased. Referring to the seizure memo of blood stained shirt (Ex.P-18), learned counsel contended that it was allegedly seized on 31.05.2023 whereas in the forwarding letter to the FSL (Ex.P-38), date of the seizure was mentioned as 30.05.2023. Learned counsel contended that although, his presence was shown in the vicinity of the scene of crime at the relevant time but no tower location was produced by the prosecution.

Learned counsel for the applicant-Manbhar would contend that recovery of the blood stained *Saari* on her disclosure statement is doubtful.

In view of the aforesaid submissions, learned counsel prayed that the suspension of sentence applications be allowed.

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

Heard. Considered.

The allegation against the applicants, which has been found to be proved by the learned trial Court vide a well reasoned judgment, is of causing murder of Shri Laddu Lal, husband of the applicant-Manbhar who was claimed to be having extra-marital affairs with the applicant-Omprakash. There is evidence of last seen of the applicant-Omprakash in the night at about 11.00 PM near the house of the deceased and it has also come in evidence that he had intimate relationship with the applicant-Manbhar. There is recovery of incriminating materials at the instance of the applicants.

Further, as per the call detail records duly proved by the prosecution, it was found that in the morning before the applicant-Manbhar reported about death of her husband Shri Laddu Lal to her in-laws, there was long conversation in between the applicants.

So far as the contentions raised by learned counsel for the applicants touching merits of the case are concerned, it is trite law that at the stage of consideration of the suspension of sentence application, this Court is not expected to sift and weigh the evidence minutely and meticulously.

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 applicants which are found to be proved by the learned trial Court vide judgment impugned, we are not inclined to allow these applications.

Accordingly, these suspension of sentence applications are dismissed.

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