HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension of Sentence Application No. 406/2025
CNR: RJHC020165482025 | URN: SOSA / 768U / 2025

In

D.B. Criminal Appeal No.91/2025

1. Sonu S/o Dharmraj S/o Babu Lal @ Ashok,
2. Seema W/o Sonu @ Dharmraj
Both Residents of Holi Khidkiya Bhangipura Karauli Police Station Kotwali Karauli Presently Residing at Lankapuri Kachchi Bhatta Basti Jaipur District Jaipur
(At present confined in Central Jail, Bharatpur)

----Accused Appellants

Versus

State of Rajasthan through PP

----Respondent

For Applicant No.1	:	Mr. Ashok Samoda with Mr. Aayush Goyal
For Applicant No.2	:	Mr. Mamraj Gurjar for Ms. Shalini Sheoran
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, P.P.
For Complainant(s)	:	Mr. Kailash Choudhary

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

Judgment / Order

19/11/2026

This suspension of sentence application under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the accused-applicants (for brevity, "the applicants") who have been convicted and sentenced by the learned Additional Sessions Judge, Karauli (Raj.) vide judgment dated 09.01.2025 passed in Sessions Case No.06/2023 (CIS No.06/2023), as under:-

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1. Section 302/34 IPC: Life imprisonment and fine of ₹20,000/- each; in default whereof, one year’s additional rigorous imprisonment.

2. Section 363/34 IPC: Seven years’ rigorous imprisonment and fine of ₹10,000/- each; in default whereof, six months' additional rigorous imprisonment.

All the substantive sentences to run concurrently.

Learned counsels for the applicants would contend that none has seen them committing the offence. They, therefore, pray that the suspension of sentence application be allowed.

Per contra, learned Public Prosecutor, assisted by learned counsel for the complainant, opposed the submissions and prayed for dismissal of the suspension of sentence application.

Heard. Considered.

The prosecution case rests on circumstantial evidence. There is evidence of “last seen” at the place of incident. The blood stained knife and the blood stained clothes of the deceased and of the accused-applicants were recovered on the disclosure statements of the applicants. As per the FSL Report (Exhibit C-1), the male DNA profile obtained from Exhibit No.10 (blood sample of the deceased on FTA card) accounted for in the mixed DNA profile obtained from blood stains detected on Exhibit No.8 (Kurta of accused Seema) and the male DNA profile obtained from Exhibit No.10 (blood sample of deceased on FTA card) matched with the male DNA profile obtained from blood stains detected on Exhibit No.4 (blood smeared soil & piece of stone) as also with the blood stains detected on exhibit No.7 (Salwar of the applicant No.2).

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.
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> **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."

In the backdrop of the aforesaid precedential law and looking to the nature and gravity of allegation found to be proved against

the applicants by the learned trial Court, we are not inclined to allow the suspension of sentence application.

Accordingly, the 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 after its preparation.

(MAHENDAR KUMAR GOYAL),J

(BHUWAN GOYAL),J

Crt_3/D-A/7/Manish