HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension of Sentence Application No. 431/2026
CNR: RJHC020190082026 | URN: SOSA / 860U / 2026

in

D.B. Criminal Appeal No. 97/2026

Vikram S/o Sureshchand, R/o Kasano Ki Dhani, Nangdiwas, Police Station Kotputli, District Kotputli-Behror.
(At Present Confined In Sub Jail Kotputli)

----Accused-Appellant

Versus

State Of Rajasthan, Through P.P.

----Respondent

For Applicant(s)	:	Mr. Manjeet Kumar
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, PP

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

Order

26/11/2026

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 Additional District and Sessions Judge, No.4, Kotputli, District Kotputli-Behror (for short, 'the learned trial Court') vide judgment dated 10.12.2025 passed in Sessions Case No.07/2024 (CIS No.01/2023), as under:-

> **Section 302 IPC:** Life imprisonment and fine of ₹22,000/-; in default whereof, six months' additional simple imprisonment.

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Learned counsel for the applicant submits that evidence of last seen is not worth confidence inspiring. He further contends that his involvement in the offence was apprehended as two months' prior to the date of incident, the applicant threatened of eliminating the deceased as he suspected the deceased to have stolen his mobile which could not be proved. He, therefore, prays that this suspension of sentence be allowed.

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

Heard. Considered.

Relying upon the testimony of Smt. Sharda Devi (PW-14), mother of the deceased, Mahender Kumar (PW-1), Sandeep (PW-6), Samvant Ram (PW-7) and Rakesh Kumar (PW-8), it was held by the learned trial Court that the deceased was last seen in the company of the applicant whereafter, he was found to be admitted in the hospital. As per the post-mortem report (Ex.P25), it was a case of culpable homicide. There was recovery of the weapon of offence (*lathi)* and of the motorcycle used in the commission of offence, on the disclosure statement of the applicant.

Insofar as the submissions raised by learned counsel for the applicant 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.
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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."

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.

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

Crt_3/D-A/7/Gourav Dhamija