HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension Of Sentence Application No. 1751/2026
CNR: RJHC020789752026 | URN: SOSA / 3148U / 2026

in

D.B. Criminal Appeal No. 351/2026

1. Shyam @ Jitendra S/o Buddhilal, Aged About 46 Years, Resident Of Indrapura, P.s. Kherli, District Alwar. (At Present In Central Jail, Alwar)
2. Kali @ Naresh Kumar S/o Buddhilal, Aged About 42 Years, Resident Of Indrapura, P.s. Kherli, District Alwar. (At Present In Central Jail, Alwar)

----Accused-Appellants

Versus

The State Of Rajasthan, Through Public Prosecutor.

----Respondent

For Applicant(s)	:	Mr. Kapil Bhardwaj
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, PP

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

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 Session Judge, Kathumar, District Alwar (Rajasthan) (for short, 'the learned trial Court') vide judgment dated 04.08.2026 passed in Sessions Case No.34/112/2021 (34/35/2016), as under:-

1. Section 147 IPC: Six Months' rigorous imprisonment and fine of ₹2,000/-each; in default whereof, one month’s additional simple imprisonment.

2. Section 148 IPC: Two Years’ rigorous imprisonment and fine of ₹5,000/-each; in default whereof, two months’ additional simple imprisonment.

3. Section 323/149 IPC: Six Months’ simple imprisonment and fine of ₹1,000/-each; in default whereof, fifteen days' additional simple imprisonment.

4. **Section 341 IPC**: One month’s simple imprisonment and fine of ₹500/-each; in default whereof, fifteen days' additional simple imprisonment.

5. **Section 324/149 IPC**: Two Years’ rigorous imprisonment and fine of ₹2,000/-each; in default whereof, one months’ additional simple imprisonment.

6. Section 302/149 IPC: Rigorous Life Imprisonment and fine of ₹20,000/-each; in default whereof, six months’ additional rigorous imprisonment.

All the substantive sentences to run concurrently.

Learned counsel for the applicants, inviting the attention of this Court to the post-mortem report of the body of the deceased (Ex.P26), would contend that no opinion regarding cause of death was given; rather, it was kept reserved till receipt of the Histopathological Report which was never received. Referring to the statement of Dr. Priyanka Sharma (PW-15), the medical jurist who had conducted the autopsy, he submitted that she did not state that the injuries received by the deceased were cause of his death. Further, referring to the statements of the eye witnesses,

namely, S/Shri Phool Singh (PW-1), Chhote Lal (PW-2) and Dharam Singh (PW-7), he contended that their cross-examination revealed that they have not witnessed the incident rather, when they reached the scene of crime, they found the deceased lying on the ground. He contended that the applicants were on bail during trial with no allegation of its misuse, hearing of the appeal is likely to take time and prayed for suspension of their substantive sentence.

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

Heard. Considered.

The court finds substantial force in the submissions advanced by learned counsel for the applicants. Neither the Ex.P26 contains any cause of death, nor PW-15 had stated that the injuries found on the body of the deceased were cause of his death. The cross-examination of PW-1, PW-2 & PW-7 also cast a doubt as to whether they had seen the incident. The applicants were on bail during trial with no allegation of its misuse. In view thereof, we deem it just and proper to allow the suspension of sentence application.

Accordingly, the suspension of sentence application is allowed. Substantive sentence awarded to the applicants-**Shyam @ Jitendra S/o Buddhilal & Kali @ Naresh Kumar S/o Buddhilal** by the learned trial Court vide judgment dated 04.08.2026 shall remain suspended during pendency of the appeal and they shall be released on bail provided they furnish bail bonds to the satisfaction of the learned trial Court to the effect that they shall appear before this Court on 21.12.2026 and as and when

called upon to do so till disposal of the appeal and subject to the following conditions:-

1. That they will appear before the learned trial Court in the month of January of every year till the appeal is decided.
2. That if the applicants changes the place of residence, they will give in writing their changed address to the learned trial Court as well as to their learned counsel in the High Court who shall, in turn, inform this Court.
3. Similarly, if the sureties change their address(es), they will give in writing their changed address to the learned trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicants in a separate file. Such file be registered as Criminal Misc. Case relating to original case in which the accused-applicants were tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of the case in the learned trial Court. In case, the said accused-applicants do not appear before the learned trial Court, the learned trial Judge shall report the matter to the High Court for cancellation of benefit extended by this order.

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

Crt_3/D-A/17/Anu