HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension of Sentence Application No. 2423/2025
CNR: RJHC021046482025 | URN: SOSA / 4691U / 2025

In

D. B. Criminal Appeal No.499/2025

Sujit Burman S/o Shibendra Burman, Aged About 36 Years, R/o South Masaladaga Thana Sahibganj, District Kuchhbehar, West Bengal. At Present Tenant In Vani Colony, Ghatal, Police Station Bhiwadi (Raj.)

---Accused-Applicant

Versus

State of Rajasthan, Through PP

----Respondent

For Petitioner(s)	:	Mr. Mamraj Gurjar for Ms. Shalini Sheoran
For Respondent(s)	:	Mr. Rajesh Choudhary, GA cum AAG with Mr. Aman Agarwal, Ms. Neha Goyal & Mr. Vinod Kumar Sharma

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

Order

28/10/2026

This suspension of sentence application under Section 430 of the Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the accused-applicant (for brevity, 'the applicant') who has been convicted and sentenced by the learned Additional Sessions Judge Bhiwadi, District Khairthal Tijara (for short, 'the learned trial Court') vide judgment dated 16.09.2025 in Sessions Case No.94/2023 (CIS No.83/2024), as under:

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Section 302 IPC: Life imprisonment and fine of Rs.10,000/-; in default whereof, four months' additional simple imprisonment.

Learned counsel for the applicant submits that he has falsely been implicated in this case. Inviting the attention of this court to the statement of the Members of the Medical Board which conducted the autopsy of the deceased, he canvassed thatw they admitted that the death could have been on account of fall from height. He, therefore, prayed that the suspension of sentence application be allowed.

Per contra, learned GA-cum-AAG opposed the prayer.

Heard. Considered.

The allegation against the applicant has been of causing murder of Atish Burman. As per the post-mortem report of the body of the deceased (Ex.P-10), which was proved by Dr. Inderpal Yadav (PW-7), Dr. Ramesh Yadav (PW-8) and Dr. Ishan Bhut (PW-13), the Members of the Medical Board which conducted the autopsy, cause of death was haemorrhagic shock due to antemortem injury on the body. The eye witness namely Shaifali Burman (PW-2) has levelled a specific allegation against the applicant of inflicting injuries to the deceased.

The submissions advanced by learned counsel for the applicant touching merits of the case cannot be appreciated at this stage by this court as, it is trite law that this Court is not expected to sift and weigh the evidence minutely while considering the suspension of sentence application.

Their Lordships have, in the case of **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, 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

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