

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc. II Suspension Of Sentence Application
(Appeal) No. 322/2026

In

S.B. Criminal Misc. Appeal No.104/2021

Khuda Bax S/o Dara Khan, Aged About 20 Years, R/o Ward No. 14, Rodwali, Ps Tehsil And District Hanumangarh. (At Present Lodged In District Jail, Hanumangarh).

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

Connected With

S.B. Criminal Misc. II Suspension Of Sentence Application
(Appeal) No. 715/2026

In

S.B. Criminal Appeal No.104/2021

Noorjahan S/o Sharif Khan, Aged About 24 Years, R/o Rodawali, Tehsil And District Hanumangarh. (At Present Lodged In District Jail, Hanumangarh).

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Dana Ram S/o Narayan Ram, R/o Ward No. 15, Rodawali, Hanumangarh Junction, Tehsil And District Hanumangarh.

----Respondents

For Petitioner(s)	:	Ms. Laxmi Devi
For Respondent(s)	:	Mr. Shriram Choudhary, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

02/07/2026

Heard learned counsel for the applicants-appellants and the learned Public Prosecutor on the applications for suspension of sentence.

Learned counsel for the applicants-appellants submitted that the allegation against the applicants-appellants is that they, along with the co-accused persons, committed forcible sexual assault upon the victim on 17.05.2018. She submitted that the applicants-appellants have remained in judicial custody for more than eight years and that the appeal is not likely to be heard in the near future owing to the heavy pendency of criminal appeals.

Drawing the attention of the Court to the record of the case, learned counsel submitted that although the allegation against the present applicants-appellants is that they, along with the co-accused persons, committed forcible sexual assault upon the victim, the medical examination report of the victim does not reveal any internal or external injuries on vital part of her body and the DNA and FSL reports do not support the case of the prosecution.

Learned counsel further submitted that it is highly improbable that, while the victim was sleeping in her house with her parents, she was forcibly taken to the roof of the house by the accused persons and subjected to forcible sexual assault without her parents becoming aware of the incident. She further submitted that several arguable points are involved in the appeal which require detailed consideration at the time of final hearing.

Lastly, learned counsel submitted that the applicants-appellants have no criminal antecedents and, therefore, the

sentence awarded to them by the learned trial Court deserves to be suspended during the pendency of the present appeal.

Per contra, the learned Public Prosecutor opposed the submissions advanced on behalf of the applicants-appellants and contended that it is not a fit case for suspension of sentence. However, he did not express any apprehension that the applicants-appellants would abscond or flee from justice if the sentence awarded by the learned trial Court is suspended.

Upon consideration of the submissions advanced at the Bar and having regard to the facts and circumstances of the case as borne out from the record, this Court is of the opinion that it is a fit case for suspending the sentence awarded to the applicants-appellants during the pendency of the present appeal.

Accordingly, these second applications for suspension of sentence filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 389 Cr.P.C.) are allowed. It is ordered that the sentence passed by the learned Special Judge, SC/ST (Prevention of Atrocities Cases), Hanumangarh, vide judgment dated 07.01.2021 in Sessions Case No.82/2018 (CIS No.82/2018), against the applicants-appellants, namely, **(1) Khuda Bax S/o Dara Khan** and **(2) Noorjahan S/o Sharif Khan**, shall remain suspended till the final disposal of the present appeal and they shall be released on bail, provided that each of them furnishes a personal bond in the sum of Rs.50,000/- along with two sureties in the sum of Rs.25,000/- each to the satisfaction of the learned trial Judge for their appearance before this Court on 04.08.2026 and as and when directed to do so, subject to the following conditions:-

1. That he/she/they will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant(s) changes the place of residence, he/she/they will give in writing his/her/their changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicant(s) in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant(s) was/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 cases in the trial court. In case the said accused applicant(s) does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

A copy of this order be placed in each file.

(KULDEEP MATHUR),J