

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Bail Application For Suspension Of Sentence
No. 424/2025

IN

D.B. Criminal Appeal No.454/2024

1.

Jeewanram Choudhary S/o Gheesaram Choudhary, Aged About 50 Years, R/o Village Mordunga, Police Station Losal District Sikar Presently House No. 53, Ganesh Colony, Police Station Vaishali Nagar, Jaipur (Rajasthan).
2.

Smt. Bhagwani Devi Wife Of Jeewanaram Choudhary, R/o Village Mordunga, Police Station Losal District Sikar Presently House No. 53, Ganesh Colony, Police Station Vaishali Nagar, Jaipur (Rajasthan).
(Both are presently Lodged In Central Jail, At Jaipur)

-----Accused-Appellants

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)

:

Mr. Suresh Kumar Sahni with
Mr. R.M. Sharma
Mr. Manendra Singh Solanki

For Respondent(s)

:

Mr. Rhishi Raj Singh Rathore, PP
Ms. Manju Dave, PP

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE SAMEER JAIN

Order

25/02/2026

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") alongwith the appeals. The applicants have been convicted and sentenced by the learned Additional Sessions Judge No.4, Jaipur District, Jaipur in

Sessions Case No.21/2019 (988/2017) vide judgment dated 29.10.2024 as under:-

- 1. Under Section 302 read with Section 120-B IPC:** Life imprisonment and fine of ₹1,00,000/- each; in default whereof, one year's additional rigorous imprisonment.
- 2. Under Section 450 read with Section 120-B IPC:** Ten years' rigorous imprisonment and fine of ₹50,000/- each; in default whereof, six months' additional rigorous imprisonment.
- 3. Under Section 201 read with Section 120-B IPC:** Seven years' rigorous imprisonment and fine of ₹30,000/- each; in default whereof, three months' additional rigorous imprisonment.

All the substantive sentences to run concurrently.

Learned counsel for the applicants submits that they have falsely been implicated in the instant case with the aid of Section 120B of IPC whereas, prosecution has failed to establish that they have conspired with co-accused namely Ramdeva Ram, who has allegedly caused death of deceased Amit Nair by gunshot as also with co-accused Vinod Kumar Gaura. He further submits that the co-accused namely Ramdeva Ram and Vinod Kumar Gaura have been arrayed as accused based on their test identification parade; but, the same suffers from inherent infirmity such as, delay in it. Learned counsel further submits that from the cross-examination of Smt. Rama Devi (PW-2), it is apparent that photographs of the accused were also published in the newspaper before they were subjected to the test identification parade rendering the same of no evidentiary value. He also submits that the recovery of pistol at the instance of co-accused Ramdeva Ram is also not reliable inasmuch as in the Forensic Science Laboratory Report, it is not

stated conclusively that the fatal gunshot was fired from it. He contends that the applicants were on bail during trial, hearing of the appeal is likely to take time and the applicant No.2 being lady is entitled for special treatment on the anvil of Section 437 Cr.P.C. He, therefore, prays that the application be allowed.

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

Heard. Considered.

The facts available on record reflect that daughter of the applicants namely Smt. Mamta Nair has married Shri Amit Nair (deceased) against their wishes almost 2 years prior to the date of incident and the applicants, in conspiracy with co-accused, committed cold blooded murder of Shri Amit Nair in broad day light at his house. After appreciating the testimony of eye-witnesses namely Smt. Mamta Nair (PW-1)- wife of the deceased and daughter of the applicants, Smt. Rama Devi (PW-2)- mother of the deceased, Ms. Vaishavi Nair (PW-39)-niece of the deceased, Sona Devi (PW-3) and Shri Vikas Yadav (PW-7), the neighbors, it was held by the learned trial Court that the applicants came with the co-accused to the house of the deceased and when they were sitting in the drawing room, the co-accused opened multiple gun fire resulting into death of Shri Amit Nair which is medically corroborated. The weapon of offence has been recovered at the instance of the co-accused. Going to house of the deceased by the applicants together with the co-accused armed with deadly weapon is in itself indicative of conspiracy with each other.

So far as submissions of the learned counsel for the applicants based on test identification parade are concerned,

although, the same are subject matter of appreciation at the stage of final hearing of the appeal; but, even otherwise, we do not find any force in the same inasmuch as we find that after their arrest, they were subjected to test identification parade without delay and were identified not only by Smt. Rama Devi; but, by other eye-witnesses as well. We notice that from the conspectus of the evidence on record, the learned trial Court has found it to be a case of "honour killing".

So far as submission of the learned counsel for the applicants that they were on bail during trial is concerned, it is trite law that the presumption of innocence available during trial vanishes once finding of conviction is recorded.

Looking to the nature of gravity of accusation against the applicants, we are not inclined to allow the application.

Accordingly, the suspension of sentence application is dismissed.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J