

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 1163/2025

IN

D.B. Criminal Appeal No.263/2025

Chaub Singh Son Of Hakim Singh, Aged About 30 Years, R/o
Chhahar Police Station Basedi District Dholpur (Raj) (Presently
Accused Appellant Confined In Central Jail, Sewar Bharatpur)

----Petitioner

Versus

State of Rajasthan through P.P.

----Respondent

For Petitioner(s)	:	Mr. G.S. Gouttam, Ms. Arati Bai Meena & Ms. Sakshi Meena for Mr. R.K. Gouttam
For Respondent(s)	:	Mr. Rishi Raj Singh Rathore, PP

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

Order

23/02/2026

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") alongwith the appeal. The applicant has been convicted and sentenced by the learned Special Judge, Dacoity Affected Areas, Dholpur (Raj.) vide judgment dated 19.05.2025 passed in Special Sessions Case No.06/2013 as under:-

Under Section 395 IPC: Life imprisonment and
fine of ₹50,000/-; in default wthereof, three
months' additional simple imprisonment.

Learned counsel for the applicant submitted that most of witnesses have turned hostile including Shri Hari Singh (PW-3) who has stated that he did not identify the applicant during the test identification parade. He further submitted that no recovery has been effected from the applicant, he was on bail during trial and prays for suspension of sentence awarded to him.

Per contra, learned Public Prosecutor has opposed the prayer.

Heard. Considered.

A perusal of the judgment impugned reflects that based on material available on record, conviction of the applicant has been recorded under Section 395 IPC. It is also reflected that out of six accused, one died during its pendency, three are absconding and two accused including the applicant have been convicted. Although, Shri Hari Singh (PW-3) has denied to have identified the applicant during test identification parade; but, admits his signature on Ex. P-15, the test identification report, which reflects that the applicant was identified by the witness. This fact also stands corroborated from the testimony of Shri Pankaj Bansal (PW-17), the then Judicial Magistrate No. 2, Dholpur, in whose presence, the test identification parade was conducted.

So far as submission of learned counsel for the applicant of him being on bail during trial, it is trite law that the presumption of innocence, which is available to an accused during trial, vanishes once convicted.

In view of aforesaid evidence and looking to the nature and gravity of allegation against the applicant, we are not inclined to allow the application for suspension of sentence.

Accordingly, the suspension of sentence application is dismissed.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J

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