



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 2146/2025

IN

D.B. Criminal Appeal No. 441/2025

Prabhat @ Bittu S/o Rasal Singh, Aged About 40 Years, R/o
Nagla Tejsingh, Police Station Udhyog Nagar, Bharatpur. (At
Present Confined In Central Jail Sewar, Bharatpur)

-----Petitioner

Versus

State Of Rajasthan, Through P.P.

-----Respondent

For Petitioner(s)	:	Mr. Rajeev Kumar Sogarwal with Mr. Sanjeev Sogarwal Mr. Hitesh Haritwal
For Respondent(s)	:	Mr. Naresh Kumar Gupta, PP

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

Order

28/03/2026

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") along with the appeal. The applicant has been convicted by the learned Sessions Judge, Bharatpur (for short, 'the learned trial Court') vide judgment dated 17.09.2025 passed in Sessions Case 64/2023 (CIS No.67/2023) and sentenced vide order dated 19.09.2025 as under:-



1. Under Section 302 in alternate Section 302 read with Section 120B IPC: Life imprisonment and fine of Rs.50,000/-; in default whereof, one year additional simple imprisonment.

2. Under Section 120B IPC: Life imprisonment and fine of Rs.50,000/-; in default whereof, one year additional simple imprisonment.

Sentences to run concurrently.

Learned counsel for the applicant submits that he has falsely been implicated and in the parcha bayan (Ex.P5) made by the deceased-Sanjay Bihari himself, it was stated that he was called by the co-accused-Krishan Kumar @ Baby as well as Naresh Gupta and only his presence was shown in the room where he was allegedly assaulted by the co-accused-Krishan Kumar @ Baby. He contends that his complicity has been found only on the basis of his mobile conversation, on the date of incident, with the co-accused-Krishan Kumar @ Baby and it could not have been basis for recording his conviction especially, in absence of transcript of the conversation which took place and it not being the prosecution case that they were unknown to each other prior to the date of incident. Learned counsel submits that he was on bail during trial, hearing of the appeal is likely to take time and prays for suspension of sentence.

Per contra, learned Public Prosecutor opposed the prayer.

Heard. Considered.

A perusal of the parcha bayan of the deceased (Ex.P5) reflects lack of any allegation against the applicant except his presence in the room where the informant was assaulted upon by the co-accused. From the judgement impugned, it is reflected that



he has been convicted on the basis of call detail records which showed that he had conversed with the co-accused on the date of incident. It is not the prosecution case that they were unknown to each other prior to that rather, evidence on record, suggests otherwise. Therefore, it was not unnatural for them to have talked to each other on the date of incident. The applicant was on bail during trial with no allegation of its misuse. Hearing of the appeal is likely to take time.

In the conspectus of aforesaid analysis, we deem it just and proper to allow the application.

Resultantly, the suspension of sentence application is allowed. Substantive sentences awarded to the applicant by the learned trial Court vide judgment dated 19.09.2025 shall remain suspended during pendency of the appeal and the applicant- **Prabhat @ Bittu S/o Rasal Singh** shall be released on bail provided that he furnishes bail bonds to the satisfaction of the learned trial Court to the effect that he shall appear before this Court on or before 28.04.2026 and as and when called upon to do so till disposal of the appeal and subject to the following conditions:-

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



The learned trial Court shall keep the record of attendance of the accused-applicant in a separate file(s). Such file(s) be registered as Criminal Misc. Case relating to original case in which the accused-applicant was tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file(s) shall not be taken into account for statistical purpose relating to pendency and disposal of the cases in the learned trial Court. In case, the said accused-applicant does 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