

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 1975/2024

IN
D.B. Criminal Appeal No. 318/2024

- 1. Brijmohan S/o Shyoram,
 - 2. Sumaan S/o Shyoram,
 - 3. Ramveer S/o Harhansh,
 - 4. Sukhveer S/o Brijmohan,
 - 5. Virendra @ Dharampal S/o Harhansh,
 - 6. Radheshyam S/o Brijmohan,
- All are R/o Baad Gulaal, Thana Kundgaon, Jila Karauli
(Raj) (At Present Accused - Appellant Is Confined In
Central Jail Bharatpur)

----Accused/Appellants/Petitioners

Versus

State Of Rajasthan, Through Public Prosecutor.

----Respondent

For Petitioner(s)	:	Mr. Deepak Chauhan with Mr. Harsh Joshi
For Respondent(s)	:	Mr. Naresh Kumar Gupta, PP Mr. Shyam Bihari Gautam

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

Order

06/04/2026

This suspension of sentence application under Section 430 of the Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the accused-applicants (for brevity, 'the applicants') along with the appeal. The applicants have been convicted and sentenced by the learned Additional Sessions Judge, Karauli vide judgement dated

27.08.2024 in Sessions Case No.38/2022, CIS No.38/2022 as under:-

Accused-appellants-Brijmohan and Sumaan:-

Section 148 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 341 IPC:- One month's simple imprisonment and fine of Rs.500/-; in default whereof, seven days' additional simple imprisonment.

Section 323/149 IPC:- One year's simple imprisonment and fine of Rs.1,000/-; in default whereof, one month's additional simple imprisonment.

Section 324/149 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 307/149 IPC:- Seven years' rigorous imprisonment and fine of Rs.10,000/-; in default whereof, six months' additional rigorous imprisonment.

Section 302/149 IPC:- Life imprisonment and fine of Rs.20,000/-; in default whereof, one year's additional rigorous imprisonment.

Accused-appellants-Ramveer and Sukhveer:-

Section 148 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 341 IPC:- One month's simple imprisonment and fine of Rs.500/-; in default whereof, seven days' additional simple imprisonment.

Section 323/149 IPC:- One year's simple imprisonment and fine of Rs.1,000/-; in default whereof, one month's additional simple imprisonment.

Section 324/149 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 307 IPC:- Seven years' rigorous imprisonment and fine of Rs.10,000/-; in default whereof, six months' additional rigorous imprisonment.

Section 302 IPC:- Life imprisonment and fine of Rs.20,000/-; in default whereof, one year's additional rigorous imprisonment.

Accused-appellant-Virendra:-

Section 148 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 341 IPC:- One month's simple imprisonment and fine of Rs.500/-; in default whereof, seven days' additional simple imprisonment.

Section 323/149 IPC:- One year's simple imprisonment and fine of Rs.1,000/-; in default whereof, one month's additional simple imprisonment.

Section 324 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 307 IPC:- Seven years' rigorous imprisonment and fine of Rs.10,000/-; in default whereof, six months' additional rigorous imprisonment.

Section 302 IPC:- Life imprisonment and fine of Rs.20,000/-; in default whereof, one year's additional rigorous imprisonment.

Section 5/27 Arms Act:- Three years' rigorous imprisonment and fine of Rs.5,000/-; in default whereof, three months' additional simple imprisonment.

Accused-appellant-Radheshyam:-

Section 148 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 341 IPC:- One month's simple imprisonment and fine of Rs.500/-; in default whereof, seven days' additional simple imprisonment.

Section 323/149 IPC:- One year's simple imprisonment and fine of Rs.1,000/-; in default whereof, one month's additional simple imprisonment.

Section 324/149 IPC:- Three years' rigorous imprisonment and fine of Rs.2,000/-; in default whereof, three months' additional simple imprisonment.

Section 307 IPC:- Seven years' rigorous imprisonment and fine of Rs.10,000/-; in default whereof, six months' additional rigorous imprisonment.

Section 302 IPC:- Life imprisonment and fine of Rs.20,000/-; in default whereof, one year's additional rigorous imprisonment.

Section 5/27 Arms Act:- Three years' rigorous imprisonment and fine of Rs.5,000/-; in default whereof, three months' additional simple imprisonment.

Sentences to run concurrently.

Learned counsel for the applicants, barring the applicant-Ramveer, submitted that the allegation of inflicting fatal injury is upon Ramveer. He submitted that the testimony of eye witnesses including that of injured eye witnesses is full of contradictions and improvements on material aspects of the case. Learned counsel further contended that while, on the same set of evidence, co-accused Rattiram, Jeetu, Lokesh and Yogendra were not even charge-sheeted, they have been convicted and sentenced as supra. He submitted that except the applicant-Virendra, from

whom a gun was recovered, only *lathees* have been recovered from rest of the applicants.

Learned counsel for the applicant-Ramveer, adopting the arguments of learned counsel for the co-applicants, submitted additionally that the informant has admitted that he has lodged the FIR after consulting about 100-150 persons present in the hospital. He also submitted that although, there was an allegation that first gunshot was fired by him but, all the injured witnesses have stated that thereafter, rest of the applicants also opened gunfire upon the deceased as also on the injured witnesses.

They, therefore, prayed that the suspension of sentence application be allowed.

Per contra, learned Public Prosecutor, assisted by learned counsel for the complainant, opposing the submissions and supporting the evidence recorded by the learned trial Court, prayed for dismissal of the suspension of sentence application.

Heard. Considered.

As per the prosecution case, all the accused applicants have assaulted the complainant-party resulting into death of Satish and injuries to various persons. As per the postmortem report of the body of the deceased and the testimony of Dr. Babulal Meena (PW2), Dr. Kailash Chand (PW3) and Dr. Rajesh Kumar Meena (PW4)-the Members of the Medical Board which conducted autopsy, cause of death was cardio hemorrhagic shock on account of multiple punctured wounds. As per the FSL Report, the pellets recovered from the body of the deceased were fired from the gun and *katta* recovered from the possession of applicants-Virendra and Radheshyam. Daljeet, Deshraj and Brahma Singh have also

received gunshot injuries which were found to be dangerous to life in nature. Rajdhar and Rajesh have received injuries with blunt weapon. The learned trial Court has recorded conviction of the applicants based on cogent material available on record including the testimony of injured eye witnesses.

Their Lordships have, in the case of **Om Prakash Sahni V/s. Jai Shankar Chaudhary and Another: (2023) 6 SCC 123**, after analyzing a number of judicial precedents proceeded to hold as under:-

“Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the Trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The Appellate Court should not reappreciate the evidence at the stage of Section 389 of the CrPC and try to pick up

few lacunas or loopholes here or there in the case of the prosecution. Such would not be a correct approach.”

In the backdrop of aforesaid precedential law and looking to the nature and gravity of acquisition against the applicants, we find no reason to allow this suspension of sentence application.

Resultantly, the suspension of sentence application is dismissed.

(BHUWAN GOYAL),J

(MAHENDAR KUMAR GOYAL),J