HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 1212/2026
CNR: RJHC020471982026 | URN: SOSA / 2254U / 2026

IN

D.B. Criminal Appeal No. 247/2026

1. Abdul Shafiq @ Nandu @ Abdul Sharif Son Of Shri Abdul Latif, Aged About 65 Years, Resident Of Kanskhedli Police Station Asnawar, District Jhalawar (Raj.) (At Present In Cefntral Jail Kota)
2. Abdul Rauf S/o Shri Abdul Sharif, Aged About 33 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present In Central Jail Kota)

----Accused/Applicants/Appellants

Versus

State Of Rajasthan, Through P.P.

----Respondent

Connected With

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 968/2026
CNR: RJHC020456502026 | URN: SOSA / 1836U / 2026

IN

D.B. Criminal Appeal No. 1039/2026

Mohammad Shafiq Urf Vajir S/o Mohammad Suleman @ Badshah, Aged About 57 Years, Resident Of Ward No. 19 Near Rehmaniya School Suket District Kota Rural (Rajasthan).(At Presefnt Confined In District Jail Jhalawar)

----Accused/Applicant/Appellant

Versus

State Of Rajasthan, Through Public Prosecutor

----Respondent

D.B. Criminal Misc. Suspension Of Sentence Application (Appeal) No. 1596/2026
CNR: RJHC020694902026 | URN: SOSA / 2878U / 2026

IN

D.B. Criminal Appeal No. 248/2026

1. Abdul Banty S/o Abdul Hafiz, Aged About 35 Years,

Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota

2. Saifu Khan S/o Abdul Hafiz, Aged About 45 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

3. Shaukat S/o Abdul Hafiz, Aged About 51 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

4. Abdul Kalu Khan S/o Abdul Hafiz, Aged About 44 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

5. Tanveer S/o Nazeer, Aged About 37 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

6. Gheesu Alias Salam S/o Jaheer, Aged About 54 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

7. Ghasu Khan S/o Nazeer, Aged About 43 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

8. Liyakat S/o Abdul Shaukat, Aged About 29 Years, Resident Of Kanskhedli, Police Station Asnawar, District Jhalawar (Raj.) (At Present Confined In Central Jail, Kota)

----Petitioners

Versus

State Of Rajasthan, Through P.P.

----Respondent

For Petitioner(s)	:	Mr. Dharmendra Choudhary Mr. Ajay Singh Yaduvanshi Mr. Sanjay Kumar Sharma
For Respondent(s)	:	Mr. Rhishi Raj Singh Rathore, PP

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

03/09/2026

These suspension of sentence applications under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 have 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, Jhalawar, District Jhalawar (for short, 'the learned trial Court') vide judgment dated 28.04.2026 passed in Sessions Case No.123/2024 (CIS No.240/2024) as under:-

Accused-Applicants-Abdul Banty and Saifu Khan:-

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

Section 3/25 Arms Act:- Two years' simple imprisonmnet and fine of Rs.5,000/-; in default whereof, two months' additional simple imprisonment.

Accused-Appellants-Abdul Shafiq @ Nandu @ Abdul Sharif, Abdul Kalu Khan, Abdul Rauf, Tanveer, Gheesu, Ghasu Khan and Liyakat:-

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

Accused-Appellant-Shaukat:-

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

Section 3/30 Arms Act:- Six months' simple imprisonment and fine of Rs.2,000/-; in default whereof, one month's additional simple imprisonment.

Accused-Appellant-Mohammad Shafiq Urf Vajir:-

Section 5/25 Arms Act:- Seven years' simple imprisonment and fine of Rs.5,000/-; in default whereof, two months' additional simple imprisonment.

Sentences to run concurrently.

Learned counsels for the applicants submit that they have falsely been implicated in this case. Inviting attention of this Court towards the postmortem report (Ex.P6) of the deceased-Kamal Kishore, they would submit that cause of death was found to be drowning and only one injury was found on his body which was simple in nature. They contend that the allegations against the applicants are of pelting stones and opening gunfire but, there is no corresponding injury. Learned counsels submit that they were on bail during trial with no allegation of its misuse, hearing of appeals is likely to take time and pray for suspension of substantive sentence.

Learned Public Prosecutor opposed the prayer.

As per the prosecution case, the applicants, along with the co-accused, caused death of Kamal Kishore. However, as per his

autopsy report (Ex.P6) which was proved by Dr. Lavish Patidar (PW4), there was only one simple injury on his body and cause of death was drowning. In that backdrop, we find substantial force in the submission of the learned counsels as to lack of their intention/knowledge of causing murder of Kamal Kishore. All the applicants were on bail during trial with no allegation of its misuse. Looking to docket of the Court, hearing of the appeals is likely to take time.

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

Resultantly, the suspension of sentence applications are allowed. Substantive sentences awarded to the applicants by the learned trial Court vide judgment dated 28.04.2026 shall remain suspended during pendency of the appeals and the applicants-**1. Abdul Shafiq @ Nandu @ Abdul Sharif Son Of Shri Abdul Latif, 2. Abdul Rauf S/o Shri Abdul Sharif, 3. Mohammad Shafiq Urf Vajir S/o Mohammad Suleman @ Badshah, 4. Abdul Banty S/o Abdul Hafiz, 5. Saifu Khan S/o Abdul Hafiz, 6. Shaukat S/o Abdul Hafiz, 7. Abdul Kalu Khan S/o Abdul Hafiz, 8. Tanveer S/o Nazeer, 9. Gheesu Alias Salam S/o Jaheer, 10. Ghasu Khan S/o Nazeer** and **11. Liyakat S/o Abdul Shaukat** shall be released on bail provided that they furnish bail bonds to the satisfaction of the learned trial Court to the effect that they shall appear before this Court on or before 05.10.2026 and as and when called upon to do so till disposal of the appeals and subject to the following conditions:-

1. That they will appear before the learned trial Court in the month of January of every year till the appeals are decided.

2. That if the applicants change the place of residence, they will give in writing their changed address(es) 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) their address(es), they will give in writing their changed address(es) to the learned trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicants in a separate file(s). Such file(s) be registered as Criminal Misc. Case relating to original case in which the accused-applicants were 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-applicants do 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.

(PRAVEER BHATNAGAR),J (MAHENDAR KUMAR GOYAL),J

18-20/PRAGATI