

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Misc Suspension Of Sentence Application (Appeal)
No. 1738/2024

In

S.B. Criminal Appeal No.2355/2024

1. Tara Chand Son Of Devlal, Aged About 36 Years, Resident Of Pura, Police Station Mandawar District Jhalawar (At Present In District Jail Jhalawar)
2. Amarsingh @ Narayan Singh Son Of Devilal, Aged About 38 Years, Resident Of Pura, Police Station Mandawar District Jhalawar (At Present In District Jail Jhalawar)
3. Bheri Bai Wife Of Tara Chand, Aged About 35 Years, Resident Of Pura, Police Station Mandawar District Jhalawar (At Present In District Jail Jhalawar)
4. Radha Bai D/o Tara Chand, Aged About 19 Years, Resident Of Pura, Police Station Mandawar District Jhalawar (At Present In District Jail Jhalawar)

----Petitioners

Versus

State Of Rajasthan, Through P.P

----Respondent

For Petitioner(s)	:	Mr. Shyam Bihari Gautam
For Respondent(s)	:	Mr. Amit Punia, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

10/10/2024

1. Heard learned counsel for the applicant-appellant and learned State counsel on the application for suspension of execution of sentence.
2. The applicants-appellants herein have been convicted for the offences punishable under Sections 341/34, 323/34, 307/34 &

304/34 of IPC vide judgment dated 22.08.2024 passed by learned Special Judge, SC/ST (Prevention of Atrocities Cases) Jhalawar (Raj.) in Sessions Case No.06/2019 (CIS No.06/2019) and has been sentenced to maximum punishment of ten years.

3. Learned counsel for the appellants-applicants submits that appellants-applicants have wrongly been convicted by the learned trial Court. Counsel submits that learned trial Court has failed to appreciate the evidence available on record in correct perspective. Counsel submits that initially, appellants were tried for the offences under Section 302 of IPC but learned trial Court has recorded the conviction under Section 304 of IPC. Counsel submits that allegation of the head injury sustained to the deceased was levelled against the Tara Chand and he has suffered incarceration of more than five years. Counsel submits that there is no allegations against the other appellants to cause head injury to the deceased. Counsel further submits that during trial appellants were on bail and they did not misuse the liberty of bail and there is no immediate prospect of hearing and disposal of the appeal in near future.

4. Learned State Counsel opposes the submissions made by the counsel for the appellant-applicant.

5. Upon a consideration of the arguments advanced on behalf of counsel for the appellant and learned State Counsel and having regard to the facts and circumstances as available on the record and especially the fact that allegation of causing head injury to the deceased is against the appellant Tara Chand and he has already

suffered incarceration of more than five years out of maximum sentence of ten years; during trial all the appellants were on bail, this Court is of the opinion that the appellants have available to them strong grounds to assail the impugned judgment of conviction and sentence. Thus, it is a fit case for suspending the sentences awarded to the applicants-appellants during pendency of the instant appeal.

6. Accordingly, the application for suspension of sentence filed under Section 430 of B.N.S.S. is allowed and it is ordered that the sentences passed by the Special Judge, SC/ST (Prevention of Atrocities Cases) Jhalawar (Raj.) in vide judgment dated 22.08.2024 in Sessions Case No.06/2019 (CIS No.06/2019) against the appellants-applicants **(1) Tara Chand S/o Devlal, (2) Anarsingh @ Narayan Singh S/o Devlal, (3) Bheri Bai W/o Tara Chand & (4) Radha Bai D/o Tara Chand** shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail, provided they execute a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for their appearance in this court on 12.11.2024 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That they will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicants changes the place of residence, they will give in writing their changed address to the trial Court as well as to the counsel in the High Court.

3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.

7. The learned trial Court shall keep the record of attendance of the accused-applicants in a separate file. Such file be registered as Criminal Misc. Case related 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 shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case the said accused applicant does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

(ANIL KUMAR UPMAN),J