

(2014) 07 RAJ CK 0084

In the Rajasthan High Court

Case No : DB Cr. Misc. (Suspension of Sentence) Application No.692/2013 in DB Criminal Appeal No.532/2013, DB Cr. Misc. Application for Suspension of Sentence No.438/2014 in DB Criminal Appeal No.502/2013, DB Cr. Misc. Application for Suspension of Sentence No.659/

Arjun Sharma

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 03-07-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2014) 07 RAJ CK 0084

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : A.K. Gupta, Rajendra Singh Tanwar and Onkar Singh Lakhawat, Advocate for the Appellant; Meenaxi Pareek, PP, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard counsel for the accused-applicants and learned Public Prosecutor.
2. From the material which has come on record, it reveals that all the accused-applicants in the instant applications filed for seeking suspension of sentence, have been convicted for offence u/s. 302 IPC or 302/34 IPC.
3. Mr. AK Gupta, Id Counsel for the accused-applicant (Arjun Sharma), who has been convicted u/s. 302 IPC, submits that there are two dying declarations made by the deceased and if read alongwith the statement of doctor Mr. Shanker Lal Asnani PW-11 and of the Investigating officer PW-1, it disbelieves the prosecution case and there cannot be any involvement of the accused-applicant in the commission of crime.
4. As regards other accused-applicants, Mr. Onkar Singh Lakhawat and Mr. Rajendra Singh Tanwar Id. counsel jointly submits that they were on bail during

trial and convicted u/s. 302/34 IPC and at least they are entitled to seek indulgence of suspension of sentence pending appeal.

5. Learned Public prosecutor opposed the applications for suspension of sentence and submitted that the statements of Ms. Leela Kanwar, sister of the deceased (PW-5); Mr. Bheru Singh (PW-6) & Mrs. Kali Bai (PW-7) who are parents of the deceased & so also the postmortem report of the deceased in itself is sufficient to convict the accused-applicants and either of them is not entitled to seek indulgence of suspension of sentence pending appeal and further submits that merely because the accused-applicants were on bail pending trial may not be sufficient to grant indulgence for suspension of sentence pending appeal.

6. We have considered the applications for suspension of sentence of all the accused-applicants and taking note of the submission made so also the statements of the prosecution witnesses (PW-5, 6 & 7) but without expressing any opinion on merits, we are not inclined to grant indulgence, prayed for, to either of the accused-applicants, pending appeal.

7. Consequently, the applications for suspension of sentence of all the accused-applicants stand rejected.

8. Copy of this order be placed in each of the respective file.