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**(2013) 01 RAJ CK 0056**

**In the Rajasthan High Court**

**Case No :** Criminal Miscellaneous Suspension of Sentence Application No. 64 of 2013 in Criminal Appeal No. 161 of 2012

Malkhan

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

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**Date of Decision :** 29-01-2013

**Acts Referred:**

**Citation :** (2013) 01 RAJ CK 0056

**Hon'ble Judges :** Narendra Kumar Jain, J;Jainendra Kumar Ranka, J

**Bench :** Division Bench

**Advocate :** Harendra Singh, for the Appellant; J.R. Bijarnia, PP for state, for the Respondent

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## **Judgement**

1. Heard learned counsel for the parties. This order will dispose of above mentioned three applications for suspension of sentence filed on behalf of three accused persons, namely, Malkhan, Chakrapaan and Naresh.

2. It is contended on behalf of accused appellants that there is only one eye witness in the present case i.e. PW. 6, Giriraj. He submitted that as per statement of PW. 6, Giriraj, the fire arm injury was inflicted by Prahlad on the person of deceased Hotam Singh, who has been convicted u/s 302 IPC simplicitor. So far as other four accused persons are concerned, the allegations against them are that they were also sitting at the place of occurrence and they all have been convicted u/s 302 read with Section 149 IPC. He also submitted that co-accused Pooran has already been released on bail by this Court in D.B. Criminal Misc. Bail Application No. 748/2012 and case of present applicants is not distinguishable with the case of co-accused Pooran, who has been granted bail by this Court. He, therefore, submitted that sentence of imprisonment of present appellants may also be suspended.

3. Learned public prosecutor opposed the bail application.

4. After considering all the facts and circumstances of the case, but without

expressing any opinion on the merits and demerits of the case, we are inclined to allow these applications and the same are hereby allowed. It is, therefore, directed that sentence of imprisonment of appellants (1) Malkhan s/o. Niranjana, (2). Chakrapaan s/o. Niranjana & (3) Naresh s/o. Mahatma @ Atar Singh, passed by Additional District and Sessions Judge, Dholpur vide impugned judgment dated 22nd December, 2011 in Sessions Case No. 31/11 shall remain suspended during pendency of the appeal and they will be released on bail provided each of them furnishes a personal bond in the sum of Rs. 50,000/-(Rs. Fifty Thousand) with two sureties of Rs. 25,000/-(Rs. Twenty Five Thousand) each to the satisfaction of the trial Court to appear before this Court on 28th February, 2013 and as and when they are called upon to do so.