

**(2016) 10 RAJ CK 0046**

**RAJASTHAN HIGH COURT**

**Case No:** Suspension of Sentence (Appeal) (Sosa) No. 1167 of 2016.

Shyam Lal S/o Shri Champa Lal,  
by caste Regar, R/o Ranikhera  
Nimbahera Police Station,  
District Chittorgarh - Appellant  
@HASH State of Rajasthan

APPELLANT

Vs

RESPONDENT

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**Date of Decision:** Oct. 19, 2016

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 389
- Penal Code, 1860 (IPC) - Section 302

**Citation:** (2016) 4 CriLR 1863

**Hon'ble Judges:** Gopal Krishan Vyas and G.R. Moolchandani, JJ.

**Bench:** Division Bench

**Advocate:** Mr. Manoj Pareek, Advocate, for the Applicant-Appellant; Mr. C.S. Ojha, Public Prosecutor, for the Respondent

**Final Decision:** Allowed

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**Judgement**

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the applicant-appellant as well as learned Public Prosecutor.

2. It is submitted by the learned counsel for the applicant-appellant that during trial the accused-appellant was on bail but during trial, the bail bonds were forfeited due to his non-appearance before the court. Thereafter till completion of the trial, he remained in custody so also till today, he is in judicial custody. The learned counsel for the accused-appellant submits that except complainant and his wife, all other eye witnesses turned hostile and did not support the prosecution case, therefore, the findings arrived by the learned trial court suffers from illegality and infirmity,

therefore, the sentence awarded to the accused-appellant may kindly be suspended.

3. The learned Public Prosecutor vehemently opposed the instant application for suspension of sentence and submits that it is not fit case for suspending the sentence.

4. After considering the entire facts and evidence of the present case without expressing any opinion on merits, we deem it appropriate to suspend the sentence awarded to accused-appellant. Accordingly, this application for suspension of sentence is allowed and it is ordered that the sentence awarded by the learned Additional Sessions Judge, Nimbaheda District Chittorgarh vide judgment dated 10.12.2015 in Sessions Case No.72/2009 against the applicant-appellant Shyam Lal S/o Shri Champa Lal shall remain suspended till the final disposal of aforesaid appeal and he may be released on bail provided he executes personal bond in the sum of Rs. 50,000/- along with two sureties in the sum of Rs.25,000/- each to the satisfaction of the trial court for his appearance before this Court on 18.11.2016 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That he/she/they will appear before the trial Court in the month of January of every year till the appeal is decided.

2. That if the applicant(s) changes the place of residence, he/she/they will give in writing his/her/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.

5. The learned trial Court shall keep the record of attendance of the accused-applicant(s) in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant(s) was/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(s) does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.