2026 INSC 1180

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Nos.....of 2026
(@Special Leave Petition (Crl.) No.19778-19780 of 2026)

Hanuman Prasad @ Hanuta Ram

....Appellant

VERSUS

State of Rajasthan & Ors.

.... Respondents

O R D E R

Leave granted.

2. The crime alleged arises from a political rivalry, leading to the murder of a person standing for election as Sarpanch. The deceased and A1, a Government Teacher, belonged to rival factions. A1's son was elected as Sarpanch earlier who had to vacate his office when he obtained a government employment. The deceased, hence, was standing for the resultant bye-elections which enraged A1. The allegation was that a conspiracy was hatched and while A1 deliberately kept aloof, at his instigation, A6 who had been in jail with A7 planned the assassination of the candidate, carried out through A11 and A12.

3. The party respondents herein who are also accused other than A1 were roped in for offence under Section 120B of the Indian Penal Code, 1860 (IPC) for hatching conspiracy and actively assisting A1, the kingpin and the perpetrators of the crime, A11 and A12. A1 was handed down a conviction under Section 302 read with Section 120B IPC with a sentence of life imprisonment, while the other party respondents herein were convicted under Section 120B with imprisonment of 10 years.

4. The High Court, according to the appellant granted bail after an erroneous consideration of the evidence, suspending the sentence of the party respondents herein. The suspension of sentence was essentially due to the fact that there were many criminal appeals pending in the High Court and it was impossible to dispose of the matter, at any time in the near future. The father of the deceased, the first informant is before us, contesting the suspension of sentence as granted cursorily by the High Court.

5. We heard, Mr. Rishi Matoliya, learned AoR appearing for the appellant. Mr.Rajan Kumar Chourasia, learned Counsel appearing for the respondent State, Mr.Abhishek Gupta, learned

AoR, appearing for A1, Mr. Vikas Verma, learned AoR appearing A2, A8 and A10.

6. As we observed, A1 is accused of having masterminded the crime and though he was not present, he was behind the conspiracy. A brief reading of the judgment would indicate that numerous witnesses were examined, a few of whom were eyewitnesses and a few who had specifically spoken of a motive regarding the political rivalry, some of whom were eyewitness too that A1 was not present at the scene of occurrence is fairly admitted.

7. However, the witnesses speak of rivalry between A1 and the deceased and A1 making open threats in the office of the SDM, who was the Returning Officer that the deceased would not be alive till the election. The father too, as we see from the judgment of the Trial Court, spoke of his son having informed him about the threat. The High Court, however found that he had admitted to such a statement having not been made in the FIS or in the statement under Section 161, Cr. PC. We do not see such a finding emanating from the judgment of the Trial Court. In any event, even if that had not been stated by the father, there was

credible testimony of the other witnesses who had been present when the threats were levelled, brazenly that the candidate would be killed. It is also pertinent that A6; who is said to have arranged the assailants through a dreaded gang-leader-A7, is still absconding, though A7 is acquitted.

8. Relevant is also the fact that PW40, an Assistant Commissioner had specifically stated that on the fateful day when the crime was committed, without any notice or provocation, A1 was present in the police station with another; that another also not having been summoned on that particular date. The Trial Court drew an inference that such appearance made by A1 was a deliberate attempt to distance himself from the crime and create an *alibi*. On a *prima facie* consideration, especially considering the threats levelled and the motive alleged, as also the specific intention coming out from the threats to ensure that the deceased does not contest the election, we are of the opinion that the High Court erred in granting bail to A1.

9. Insofar as the other accused are concerned, the prosecution case is that the number plate of the vehicle used to flee was changed, rooms were booked and SIM cards were

obtained, all of which were in assistance to the actual perpetrators, on the command of A1. However, a brief reading of the judgment, convicting and sentencing the accused indicates that the specific allegation of the number plate having been changed by PW8 and PW44 was not established since the said witnesses turned hostile. Though, PW12, PW13 and PW27 were proffered to prove that one of the accused had booked rooms for the perpetrators, there is no identification made by them of the actual perpetrators. PW66, PW67 and PW68 proffered to prove the purchase of the SIM cards also turned hostile.

10. In the above circumstances, we do not find any reason to interfere with the suspension of sentence granted to the other accused/respondents herein.

11. In the result, the suspension of sentence as granted by the High Court to A1 stands cancelled. He shall surrender before the Trial Court within a period of two weeks from today, failing which, proceedings shall be taken to apprehend him. Insofar as the other accused/respondents herein are concerned, we cause no interference to the order suspending their sentence.

12. Oftener than ever, this Court has cautioned the releasing of

accused, especially convicted for heinous offences, after conviction by one Court on the ground of there being no possibility of the appeal being heard immediately; which questions the validity of the judicial process itself. Whatever be the reason for the pendency of cases, the Courts cannot be complacent and release criminals convicted for heinous offences, especially when they have not undergone sentence for any considerable period, since it puts to peril the life of the civil society; exposing the fault lines of the system, which we definitely cannot cover up but should always endeavour to overcome.

13. In the present case, though it is alleged in the appeal that not even a single day of incarceration was suffered by A1, we are informed that he had been imprisoned for four months and eighteen days and had been on bail throughout.

14. While expressing the above caution, we also have to notice that there have been cases where, for a decade the trial had continued and then the appeal had been pending for another decade when the accused were in custody for long periods. What we indicate is the circumspection with which grant of bail

has to be made with respect to persons convicted in heinous crimes. This has to be done on a *prima facie* examination of the evidence led, which if found to be compelling, then with due weightage given to the actual incarceration suffered by the accused juxtaposed with the reality of the long pendency of appeals in the concerned court and it cannot be a knee jerk reaction to the pendency, the burden of which is more on the citizen than on the Courts. The Courts should be sensitive to the sentiments of the victims' family too while being concerned with the liberty of an individual, especially when the accused stands convicted by a Court of law, no longer being enabled the presumption of innocence, like in this case. The father, day-in and day-out, has to contend with, watching the person convicted of the murder of his son, walking free while the Judges grapple with their pendency in Courts.

15. We are of the opinion that in the present case, the pendency and the possibility of the appeal being taken up in the near future cannot be a reason to order suspension of sentence, at least insofar as A1 is concerned, who we find, on a *prima facie* consideration, to have been convicted on sufficient evidence.

Here, the FIR was of the year 2017 and the accused were on bail, except for a brief incarceration during trial. We make it clear that our observations with respect to A1's guilt is only *prima facie* as is our comments on the evidence against others which will not regulate the consideration of the appeal.

16. The appeals stand partly allowed.

17. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
OCTOBER 27, 2026.