HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Miscellaneous II Bail Application No. 644/2025

Ramsingh S/o Shankar Singh Rajput, Aged About 26 Years, R/o Teliyo Ka Mohalla, Ward No.08 Aroli, Police Station Bijoliya, District Bhilwara, (Presently Lodged In District Jail Bhilwara)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : Mr. SK Bhati
For Respondent(s) : Mr. Surendra Bishnoi, PP

HON'BLE MR. JUSTICE FARJAND ALI
Order

14/01/2025

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 439 Cr.P.C. at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	166/2023
2.	Concerned Police Station	Bijoliya
3.	District	Bhilwara
4.	Offences alleged in the FIR	Under Sections 341, 323, 307, 435, 34 of IPC
5.	Offences added, if any	Under Section 324, 326 of IPC
6.	Date of passing of impugned order	06.01.2025

2. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against him and his incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the

accused-petitioner and he has been made an accused based on conjectures and surmises.

3. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.

4. I have considered the submissions made by both the parties and have perused the material available on record.

14 months ago the bail prayer of the petitioner was rejected by this Court by observing the nature of accusation and an opportunity was given to him to make a prayer for bail after the statement of victim is recorded in the trial.

Now the second bail application has been moved on the ground that the petitioner is incarcerated and in no manner responsible for the delay. Despite issuance of several process to secure the presence of the victim, he is not turning up for recording of his statement. On 21.02.2024 bailable warrant was issued to secure the presence of the witness, but of no avail. Again on several occasions, the learned trial judge issued repeated processes but all went in vain. Constrained by the circumstances, the learned trial judge, vide order dated 07.08.2024 issued a warrant of arrest to secure the presence of the witness because he did not obey service on bailable warrant. The SHO was given a responsibility to effectuate service upon the witness but it is felt that the efforts made by the learned trial judge to proceed the matter expeditiously have been impeded by the witness. Presumably,

for the reason that he wanted to prolong the recording of his statement perhaps for the reason that until he is examined in the trial, the petitioner would languish in jail. The submission of defence cannot be ruled out in the given circumstance that the witness is a very clever person and he is deliberately evading the process of Court just to defeat the cause of justice. The order-sheet of the trial court dated 20.12.2024 revealing that the SHO was summoned by the learned trial but of no avail since the efforts cannot be materialized to secure the presence of witness.

I am of the view that the detention of any accused pending trial cannot be made to longevity owing to the stubborn attitude of an astute opponent.There is high probability that the trial may take long time to conclude. In light of these facts and circumstances, it is deemed suitable to grant the benefit of bail to the petitioner in the present matter.

5. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes 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 his appearance before the court concerned on all the dates of hearing as and when called upon to do so.

(FARJAND ALI),J

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