HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Misc(Pet.) No. 1215/2025

1. Vimla W/o Shanker Lal, Aged About 39 Years, R/o Village Kesardesar Jatan, Police Station Deshnok, Tehsil And Dist. Bikaner (Raj.)
2. Sushila W/o Chaina Ram, Aged About 41 Years, R/o Village Kesardesar Jatan, Police Station Deshnok, Tehsil And Dist. Bikaner (Raj.)

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Suresh S/o Bhagirath, R/o Kesardesar Jatan, Police Station Deshnok, Tehsil And Dist. Bikaner (Raj.)

----Respondents

For Petitioner(s)	:	Mr. A.R. Godara
For Respondent(s)	:	Mr. Vikram Rajpurohit, DyGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

07/02/2025

1. Heard learned counsel for the petitioners, learned Public Prosecutor and perused the material placed on the record.

2. Section 233 of the CrPC confers a statutory right to the accused to lead evidence in his defence and for that purpose, he may move an application to summon any witness, who supposedly would not appear in the court upon the request of the accused. The learned trial Judge dismissed the application of the petitioners vide order dated 21.01.2025 and at the same time, closed the right to lead defence of the accused. This court feels that the order dated 24.01.2025 is not in consonance with the letter and spirit of justice. Unless the court feels that the prayer is made to

protract the course of trial or to vex the parties, the opportunity to lead evidence in defence ought to have been granted.

3. The witness Sahiram, for whom the prayer for summoning has been made would purportedly adduce evidence in support of the plea of alibi raised by the petitioners.

4. In view of the discussion made above, the miscellaneous petition deserves to be and is hereby allowed. The impugned order dated 24.01.2025 passed by the learned Additional Sessions Judge No.2, Bikaner in Sessions Case No.45/2016 (CIS No.257/2016) is set aside. The learned trial court shall fix a date and summon the witness Sahiram to lead evidence in defence. No unnecessary adjournment shall be given to the petitioners.

(FARJAND ALI),J

278-Pramod/-