HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 49/2025

Wasim S/o Liyakat, Aged About 27 Years, R/o Malola Marg, Gaytri Nagar ,p.s. Pratapnagar, Bhilwara. (Presently Lodged In Dist Jail Bhilwara)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

Connected With

S.B. Criminal Miscellaneous Bail Application No. 13712/2024

Abdul Kadir S/o Abdul Latif, Aged About 21 Years, R/o Bandi Mohala Sahapura ,p.s. Sahapura, Dist. Sahapura (Raj.) (Presently Lodged In Dist. Jail Bhilwara)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. A.R. Choudhary Mr. Kaushal Gautam
For Respondent(s)	:	Mr. Rajesh Bhati, PP Mr. Moti Singh for complainant

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HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

10/01/2025

These applications for bail under Section 439 Cr.P.C. have been filed by the petitioners who have been arrested in connection with F.I.R. No.452/2024 registered at Police Station Subhash Nagar, Dist. Bhilwara, for the offences punishable under Sections 376D of IPC and Sections 5(g)/6, 16/17 of POCSO Act and Sections 70(2) of BNS.

Heard learned counsel for the parties at Bar. Perused the material available on record.

Learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the present case. Drawing attention of the Court towards the FIR and the challan papers, learned counsel for the petitioner submitted that the petitioner Abdul Kadir, was having consensual relationship with the victim 'ABC'. When their relationship came to be noticed by the family members of the victim 'ABC', on 02.10.2024, they had brutally beaten the petitioner-Abdul Kadir with blunt weapons. The petitioner- Abdul Kadir on 02.10.2024 itself lodged an FIR No.450/2024 at P.S. Subhash Nagar, Dist. Bhilwara in this regard.

Learned counsel submitted that the complainant- Lokesh Daroga has roped the petitioner- Abdul Kadir in a false criminal case though sufficient material in the form of mobile call details and mobile recharge bills is available on record indicating long standing relationship between the petitioner and victim 'ABC'. Learned counsel submitted that it is not a case of commission of sexual assault upon the victim but it is a case of consensual relationship between two adult persons. The allegation against the petitioner- Wasim is that he was an accomplice of the petitioner- Abdul Kadir in committing the alleged crime.

Lastly, learned counsel for the petitioners submitted that the petitioners are in judicial custody and the trial of the case will take sufficiently long time, therefore, the benefit of bail may be granted to the accused-petitioners.

Per contra, learned Public Prosecutor and learned counsel for the complainant have vehemently opposed the bail applications.

Having considered the rival submissions, facts and circumstances of the case, this Court *prima facie* finds that the

petitioner- Abdul Kadir has lodged an FIR No.0450/2024 at P.S. Subhash Nagar, Dist. Bhilwara stating *inter alia* that as and when he was standing with the victim near a private bus stand, he was brutally beaten by unidentified persons. This Court further *prima facie* finds that call details between the petitioner- Abdul Kadir and the victim clearly indicates that they the petitioner- Abdul Kadir and the victim were in a constant touch with each other. This Court also *prima facie* finds that though as per the prosecution, the victim 'ABC' was subjected to forcible sexual assault/rape by the petitioner- Abdul Kadir on the pretext of making her obscene photographs and videos viral, but no such material has been recovered by the investigating agency. The petitioners have not even been charge-sheeted for the offences under Information Technology Act, 2000. The prosecution has not shown any apprehension of petitioners influencing the material prosecution witnesses of the case or fleeing away from justice, in case they are enlarged on bail. Thus, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the bail applications filed by the petitioners deserve to be accepted.

Consequently, these bail applications under Section 439 Cr.P.C. are allowed. It is ordered that the accused-petitioners **(1) Wasim S/o Liyakat and (2) Abdul Kadir S/o Abdul Latif** arrested in connection with F.I.R. No.452/2024 registered at Police Station Subhash Nagar, Dist. Bhilwara, shall be released on bail, if not wanted in any other case, provided **each of them** furnishes a personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each, to the satisfaction of learned trial court, for their appearance before

that court on each & every date of hearing and whenever called upon to do so till completion of the trial.

It is however, made clear that findings recorded/observations made above are for limited purposes of adjudication of bail application. The trial court shall not get prejudiced by the same.

A copy of this order be placed in each file.

(KULDEEP MATHUR),J

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