HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 4250/2026
CNR: RJHC010329232026 | URN: CRLMB / 9722U / 2026

Shahrukh Khan S/o Abdul Rasid, Aged About 31 Years, Resident Of Kheradiyo Ka Bas Nichali Gali Near Isahakiya School Police Station Sadar Bazar Jodhpur (Lodged In Central Jail Jodhpur)

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Rajshree D/o Suesh Mathur, Resident Of 14/654 Chopasani Housing Board Jodhpur

----Respondents

For Petitioner(s)	:	Mr. C.S. Rathore
For Respondent(s)	:	Mr. Surendra Bishnoi, PP Mr. D.K. Bishnoi Mr. Ashok Khichar

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HON'BLE MR. JUSTICE SANDEEP SHAH

Order

10/08/2026

1. The applicant has filed the present bail application under Section 483 of BNSS being aggrieved against the order dated 17.03.2026 passed by the learned Special Judge, POCSO Act, 2012 and Commission for Protection of Child Rights Act, 2005, No.1, Jodhpur Metropolitan, Jodhpur, in Criminal Miscellaneous Case No.19/2026, whereby the bail application filed by him under Section 483 of B.N.S.S. was rejected. The accused-applicant is behind the bars, pursuant to the F.I.R. No.79/2026 registered at Police Station Chopasani Housing Board, District Jodhpur City West, Rajasthan for the offences punishable under Sections 74, 78(2), 351(2) & 308(2) of BNS.

2. Learned counsel for the applicant submits that as far as FIR is concerned, there is no allegation of rape against the applicant. He further submits that in her statement recorded under Section 180 of BNSS, the prosecutrix herself has stated that in the month of February 2009 (i.e. when she was 17 years and 11 months of age), the applicant and the prosecutrix had sexual intercourse. He further submits that there is no allegation of forceful sexual intercourse thereof. He further submits that the prosecutrix herself has stated that even after her engagement, she used to have a talk to the applicant, and with the intention of ensuring that the prosecutrix did not get engaged elsewhere, the allegation was levelled that the applicant sent certain objectionable photographs to the fiance of the prosecutrix. He further refers to the statement of the fiance of the prosecutrix, wherein he has refused to hand over his phone to the police officials to verify the correctness of the allegations. He further refers to the statement of prosecutrix recorded under Section 183 of BNSS, wherein too she has stated that both of them entered into a relationship with mutual consent and that after her engagement in the year 2025, the applicant tried to interfere in her relationship and had sent certain objectionable photographs to her fiance, following which, the FIR came to be lodged. He further submits that it was a case of consent and has been given the color of a criminal offence simply based upon the fact that certain objectionable photographs have been recovered. He further refers to page 75 of the paper-book to emphasize that the photographs recovered were of various kinds and not only nude photographs. He further submits that rather the

photographs fortify the fact of a consensual relationship between both the applicant and the prosecutrix. He, therefore, implores this Court to allow the present Criminal Miscellaneous Bail Application.

3. *Per contra*, learned Public Prosecutor as well as learned counsel for the complainant oppose the bail application and submit that the prosecutrix has remained firm during her both statements with regard to the offence committed by the applicant upon the prosecutrix. Therefore, they pray that the applicant does not deserve to be enlarged on bail.

4. Heard learned counsel for the parties and perused the material available on record.

5. I have considered the arguments advanced by both the sides and have considered the facts and circumstances of the case. A perusal of the statement of the prosecutrix recorded under Sections 180 & 183 of BNSS reveals that she has clearly stated that the sexual intercourse was consensual and that, post-2022, she was in regular touch with the applicant on phone calls, however she did not meet the applicant. Furthermore, she has admitted that she got engaged somewhere else in 2025, and thereafter, upon the applicant initially threatening her and subsequently sending objectionable photographs to her fiance, the FIR was lodged. The statement of fiance has been clear that he has refused to hand over his phone to the police, thus, the receipt of the photographs by the fiance remains under a shadow of doubt. Furthermore, the statement of the prosecutrix *prima facie* points toward the fact that the relationship was consensual and

turned sour only after the engagement of the prosecutrix. Further, considering the details of the photographs which include various types of pictures of the applicant, the prosecutrix, and family members *prima facie* fortify the fact of a consensual relationship. Thus, without expressing any opinion on merits/demerits of the case, this Court is inclined to enlarge the applicant on bail.

6. Consequently, the bail application under Section 483 B.N.S.S. is **allowed**. It is ordered that the accused-applicant **Shahrukh Khan S/o Abdul Rasid** arrested in connection with F.I.R. No.79/2026 registered at Police Station Chopasani Housing Board, District Jodhpur City West, Rajasthan shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each, to the satisfaction of learned trial Court, for his appearance before that Court on each & every date of hearing and whenever called upon to do so till completion of the trial.

7. It is further, made clear that the findings recorded/observations made hereinabove are for limited purposes of adjudication of bail application and the same shall not prejudice the trial of the case in any manner.

(SANDEEP SHAH),J

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