



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous III Bail Application No. 1544/2026

Surender Singh Alias Suresh S/o Kalu Singh, Aged About 26 Years, R/o Dawer, Rajasthan, Rajasthan. Presently Lodged At Central Jail, Jodhpur.

----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Mudit Vaishnav
For Respondent(s) : Mr. Ramesh Dewasi, Dy.G.C.

HON'BLE MR. JUSTICE FARJAND ALI

Order

23/03/2026

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	428/2023
2.	Concerned Police Station	Dev Nagar
3.	District	Jodhpur City West
4.	Offences alleged in the FIR	Under Section 363 of IPC
5.	Offences added, if any	Sections 376(2)(N) of IPC, Section 5(I)/6 of POCSO Act and 3(2)(V) of SC/ST Act
6.	Date of passing of impugned order	14.01.2026

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.

None appeared for the victim or for her family members despite supplying information to them.

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. Even a glimpse over the statement of victim recorded during investigation and during trial makes it abundantly clear and at the same time gives force to the submission of the learned counsel for the petitioner that she was a consenting party. She was in love with the petitioner, a boy of 23 year age, eloped with him, roamed at several places, used public transports and came in contact with several people but raised no hue and cry or sought assistance of anyone and the above were the circumstances suggestive of her being a consenting party. Several incogruence and the discrepancies have been noticed by this Court with regard to the age of the victim. The documents collected during investigation and the other

documents reliance on which placed by the learned counsel for the petitioner as well as the oral evidence produced during trial are suggestive of the submission that there is no concrete evidence establishing the fact that she was below the age of 18 years at the relevant point of time. For instance P.W.2 - Amriti Tam Tam, the grand mother of the victim, when cross-examined, has replied in an unambiguous term that her son got married 24-25 years ago and after one year of their marriage, the victim was born out of their wedlock. There are additional circumstances which merit consideration, particularly the admissions made by the victim (P.W.-1) during the course of her cross-examination, as well as the inconsistencies emerging from her statements regarding her places of study, which reflect varying versions of the facts. It is further pertinent to note that the petitioner has been in judicial custody for a period of approximately two years. The trial has not been completed till now and would still take a long time to reach on a legitimate conclusion. 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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