

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Appeal (Sb) No. 258/2026

Mohammad Ali S/o Mamdu Khan, Aged About 20 Years, R/o Nagauri Colony Gali No 05 House No 84 Chak E Choti S.s.b. Road Sriganganagar Rajasthan (Presently Lodged In Judicial Custody In District Jail, Sri Ganganagar)

----Appellant

Versus

State Of Rajasthan, Through Pp

----Respondent

For Appellant(s)	:	Mr. Pankaj Kumar Gupta Mr. Aman Agarwal
For Respondent(s)	:	Mr. Lalit Kumar Sen, PP Mr. OP Choudhary, PP Mr. Pradhuman Singh for complainant

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

24/02/2026

1. The jurisdiction of this Court has been invoked by way of filing an appeal under Section 14-A(2) of SC/ST (Prevention of Atrocities) Act, 1989, at the instance of accused-appellant. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	626/2025
2.	Concerned Police Station	Jawahar Nagar (Ganga Nagar)
3.	District	Ganga Nagar
4.	Offences alleged in the FIR	Sections 61(2)(a), 351(3), 127(2), 64(1), 64(2)(m), 5(l), 6 of the POCSO Act and 3(2)(v) of the SC/ST Act.
5.	Offences added, if any	Sections 64(2)(m), 87 of the

		BNS, 2023 and 3(2)(v) of SC/ST Act.
6.	Date of passing of impugned order	12.01.2026

2. Learned counsel for the appellant submits 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-appellant and he has been made an accused based on conjectures and surmises.
- 2.1 The appellant is in judicial custody since 23.12.2025. Appellant is aged about 20 years and the prosecutrix is aged about 19 years on the date of lodging of the FIR. The FIR was lodged on 03.11.2025 and the alleged incident occurred on 30.08.2025. The prosecutrix has levelled allegation of committing sexual assault against the appellant in her statement recorded under Section 183 of the BNSS. While referring to the statements, it is submitted that the story as narrated by the prosecutrix is not trustworthy. The statements of the prosecutrix indicates that as a matter of fact there were consensual relations between the appellant and the prosecutrix and the prosecutrix lodged the FIR when their relation was exposed. The prosecutrix has alleged that sexual assault was committed even when she was a minor and while doing so, some obscene photos and videos were taken by the appellant and based on these materials, he was

blackmailing the prosecutrix and repeatedly committed sexual assault upon her.

- 2.2 While referring to the charge-sheet, it is submitted that neither any obscene photos or videos were recovered nor offence under the POSCO Act was found to be made out against the present appellant. The investigating authority has concluded that the relation between the appellant and the prosecutrix was consensual and there is nothing to indicate in the investigation which could make out a case of sexual assault against the present appellant. Even the date when the appellant allegedly abducted the prosecutrix, becomes highly doubtful in view of the statements recorded after she was recovered by police on MPR lodged by her husband wherein she stated that she, on her own will, went with the present appellant.

Based on these submissions, it is argued that the appellant, who is presently in judicial custody, is entitled to be enlarged on bail as the trial will take sufficiently long time to conclude.

3. Contrary to the submissions of learned counsel for the appellants, learned Public Prosecutor and learned counsel for the complainant oppose the appeal and submits that in view of the specific statements made by the prosecutrix under Section 183 of the BNSS alleging the sexual assault (rape) against the present appellant and while referring to Section 29 of the POCSO Act, it is contended by the learned Public Prosecutor that presumption is against the present appellant

and at this stage, the appellant may not be enlarged on bail.

It is further contended that on three different occasions, statement of 180 BNSS were recorded wherein it was alleged that the appellant committed sexual assault on the prosecutrix.

4. Heard learned counsel for the appellant and learned Public Prosecutor and perused the material available on record.
5. Considering the submissions made by learned counsel for both the parties and the facts and circumstances of the case, and the challan papers and the fact that the prosecutrix is a 19 year old married woman and the appellant is 20 years of age; so also considering her statement recorded on MPR, wherein she has stated that after marriage she was residing in her matrimonial home from where she voluntarily went with the petitioner; there is delay in lodging the FIR; there is no material available on record regarding blackmailing based on the obscene photos and videos; prima facie the relation between the appellant and the prosecutrix being consensual cannot be brushed aside at this stage; more so, the charge-sheet is proposed under Sections 64(2)(m), 87 of the BNS, 2023 and 3(2)(v) of SC/ST Act and case under POCSO Act is not made out, this Court is of the considered view that no fruitful purpose would be served by keeping the petitioner behind bars for an indefinite period. Thus, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the appeal filed by the appellant deserves to be allowed.

6. Consequently, the instant appeal is allowed. The impugned order dated 12.01.2026 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Cases, Sriganganagar, is set aside. It is ordered that the accused-appellant- **Mohammad Ali S/o Mamdu Khan**, arrested in connection with aforesaid FIR, shall be released on bail, provided he furnishes a personal bond of Rs.50,000/- and two sureties of Rs. 25,000/- each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.
7. 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.

(SUNIL BENIWAL),J