

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous (Petition) No. 1355/2026

Banwari Lal S/o Heera Ram, Aged About 34 Years, Resident Of
Radaka Bera Padiyal Police Station Bhojasar District Phalodi
Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through Superintendent Of Police
Station District Phalodi Rajasthan
2. The Superintendent Of Police, District Phalodi Rajasthan
3. The Station House Officer, Bhojasar District Phalodi
Rajasthan

-----Respondents

For Petitioner(s) : Mr. Ashok Khillery

For Respondent(s) : Mr. Vikram Rajpurohit, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

DATE OF CONCLUSION OF ARGUMENTS	19/03/2026
DATE ON WHICH ORDER IS RESERVED	19/03/2026
FULL ORDER OR OPERATIVE PART	Full Order
DATE OF PRONOUNCEMENT	20/04/2026

BY THE COURT:-

1. By way of the present Criminal Miscellaneous Petition under Section 482 Cr.P.C. (now corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the petitioner has invoked the inherent jurisdiction of this Court seeking quashment of the allegedly arbitrary and illegal action of the respondents in initiating and continuing history-sheet proceedings against him under the Rajasthan Police Rules, 1965 and the Rajasthan Habitual Offenders Act, 1953 vide letter dated 05.05.2023.

2. The grievance of the petitioner is that the impugned action, apart from being bereft of statutory foundation, has the effect of stigmatizing him as a habitual offender without lawful basis and thereby infringes his fundamental rights to dignity, reputation, equality and personal liberty guaranteed under Articles 14 and 21 of the Constitution of India.

2.1. The foundational facts, as projected in the petition, are that respondent No.3 addressed a communication to respondent No.2 alleging that several criminal cases were pending against the petitioner and sought permission for opening a history-sheet against him. It is averred that respondent No.2, without undertaking any objective scrutiny regarding the nature of the cases, their outcome, their antiquity, or the legal status of the petitioner, mechanically accorded approval on the very same date i.e. 05.05.2023 for opening the history-sheet. According to the petitioner, such an exercise reflects patent non-application of mind and abdication of statutory responsibility. Hence the instant Misc. Petition.

3. Learned counsel for the petitioner submitted that out of fourteen criminal cases referred to by the respondents, the petitioner already stands acquitted in seven matters after full-fledged trial, while the remaining cases are stated to be pending adjudication. It is further contended that the petitioner has never suffered any conviction and thus cannot, by any permissible standard, be branded as a habitual offender. It was urged that mere pendency of cases, absent conviction or demonstrable

habituality, cannot furnish a lawful basis for entry of a citizen's name in the surveillance register or for opening a history-sheet.

3.1. Elaborating the challenge, learned counsel submitted that Rules 4.4 and 4.9 of the Rajasthan Police Rules, 1965 contemplate the exercise of power only upon objective satisfaction founded on tangible material. The competent authority must entertain a reasonable belief that the person concerned is habitually addicted to crime or acts as an aider or abettor of criminal activity. Such satisfaction cannot be whimsical, mechanical, or founded merely upon numerical mention of criminal cases irrespective of their result. It was, therefore, contended that the petitioner does not satisfy the statutory ingredients either under the Rules of 1965 or within the meaning of habitual offender under the Act of 1953.

3.2. In order to substantiate the aforesaid submission regarding the criminal antecedents attributed to the petitioner, learned counsel for the petitioner has placed on record the particulars of all cases referred to by the respondents, indicating their present status, whether resulting in acquittal or remaining pending consideration. The same are reproduced hereunder for ready reference:-

S. No.	FIR No.	Police Station	District	Status
1	281/2021	Dechu	Phalodi	Pending
2	282/2021	Dechu	Phalodi	Pending
3	283/2021	Dechu	Phalodi	Pending
4	79/2020	Chakhu	Jodhpur	Acquitted on 30.09.2023
5	77/2020	Chakhu	Jodhpur	Acquitted on 30.09.2023

S. No.	FIR No.	Police Station	District	Status
6	220/2020	Phalodi	Phalodi	Pending
7	82/2020	Chakhu	Jodhpur	Acquitted on 13.05.2023
8	535/2015	Kotwali	Barmer	Pending
9	48/2016	Phalodi	Phalodi	Pending
10	52/2011	Phalodi	Phalodi	Acquitted on 19.02.2020
11	73/2017	Lohawat	Phalodi	Acquitted on 29.05.2017
12	26/2009	Phalodi	Phalodi	Pending
13	136/2009	Phalodi	Phalodi	Acquitted on 13.08.2009
14	176/2010	Phalodi	Phalodi	Acquitted on 13.04.2023

4. Per contra, learned Dy. Government Advocate opposed the petition and submitted that the competent authority, after considering the overall antecedents and material available on record, found it appropriate to declare the petitioner a history-sheeter and such administrative satisfaction ought not to be lightly interfered with in exercise of extraordinary jurisdiction.

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

6. The power to open and continue a history-sheet, though administrative in form, carries serious civil consequences in substance. Entry of a citizen's name in the surveillance register inevitably casts a shadow upon his social standing, reputation, movement, and personal liberty. Such power, therefore, cannot be exercised casually or as a matter of routine. It must rest upon discernible material demonstrating persistent criminal proclivity, recurring unlawful conduct, or such circumstances as would

reasonably justify preventive surveillance within the framework of law.

6.1. Upon careful scrutiny of the record, it emerges that out of fourteen cases cited against the petitioner, seven have culminated in acquittal. The remaining cases are pending trial and thus remain sub judice. It is trite that pendency of criminal proceedings cannot be equated with culpability, nor can an accusation be elevated to proof. Presumption of innocence continues to operate until displaced in accordance with law. In absence of any conviction, much less repeated convictions, the action of branding the petitioner as a habitual offender becomes legally fragile and constitutionally suspect.

6.2. Equally significant is the aspect that no subsequent criminal involvement of the petitioner has been shown since the year 2020. The absence of fresh criminal activity during the intervening period assumes considerable importance while evaluating whether the petitioner exhibits a continuing tendency towards criminal conduct. The silence of the record in this regard militates against the theory of persistent habituality sought to be attributed by the respondents.

6.3. The material placed before this Court does not indicate that the competent authority examined the age of the cases, their nature, the result thereof, or whether they disclose any consistent pattern of criminal behaviour. There is also no indication of any independent satisfaction recorded on objective parameters. The permission appears to have been granted on the same date on

which the proposal was received. Such precipitate approval, without reflective scrutiny, lends credence to the petitioner's plea of mechanical exercise of power.

6.4. A history-sheet is not intended to be a punitive label nor a convenient administrative instrument for indefinite stigmatization. It is a preventive mechanism to be employed sparingly and strictly in accordance with statutory safeguards. If the threshold requirements of habituality, continuity, or reasonable apprehension of recurring criminal conduct are absent, continuation of such proceedings would amount to misuse of authority.

6.5. A Coordinate Bench of this Court, while interpreting Rules 4.4 and 4.9 of the Rajasthan Police Rules, 1965 ***in the case of Sanjay Vs. State of Rajasthan and Ors. (S.B. Criminal Misc. Petition No.792/2016)*** along with other connected matters ***decided on 23.01.2023, as also in the case of Rakesh Alias Rekhraj Vs. State of Rajasthan (S.B. Criminal Misc. Petition No.6584/2022) decided on 23.01.2023,*** which were also pertaining to opening of the history-sheet, observed as under:-

11. While considering Rules 4.4 and 4.9 of the Rajasthan Police Rules, 1965 as well as the judgment cited, this Court observes that for sustaining a history-sheet against a person, either a person has to have three cases of convictions which would bring him within the domain of the definition of "Habitual Offender" so that he could be declared as a history-sheeter, by entering his name in the surveillance register, or as per Rule 4.9 of the Rajasthan Police Rules, 1965, it is also stated that anything reasonable could be the criteria for

determination of entering a person's name in the surveillance register, as per his being habitual to commit crime.

11.1 For the sake of brevity, this Court arrives at the following uniform criteria to determine whether an entry of a person's name in the surveillance register is justified:

(a) A person having three consecutive convictions against him, and being a habitual offender, shall be liable for continuance of entry of his name in the surveillance register, while declaring him as a history-sheeter; however, if the convictions are 15 years or before, then the history sheet/entry of his name in the surveillance register will not fall in this criteria of sustenance.

OR

(b) If a person is having more than ten cases against him, in totality, irrespective of the result, his name, at the discretion of the concerned authority, entered in the surveillance register, while declaring him as a history-sheeter, is justified and deserves continuance; but if a person is having more than ten cases and all of them are 10 years old, then the history sheet/entry of his name in the surveillance register, will not fall in this criteria of sustenance.

11.2 As an upshot of the above, this Court observes that a history-sheet shall be amenable to judicial scrutiny as above, and thus, while keeping into consideration Rule 4.4 and Rule 4.9 of the Rajasthan Police Rules, 1965 and the precedent law, this Court is of the opinion that the entry of a person's name in the surveillance register/history sheet, on count of his being a habitual offender, shall not be interfered with, if there are three consecutive convictions against such person, or such an entry in the history sheet/surveillance register shall not be interfered with, if a person is having more than 10 cases, in totality, against him, irrespective of the result. (The condition of 10 cases shall not apply, if there are no cases in last 10 years; similarly, if the convictions are 15 years or before, then again the exclusion of the

person's name from the history sheet/surveillance register shall be warranted).

11.3 This Court thus observes that if a person suffers from any of the above disqualifications, then he shall be disentitled from claiming relief against being declared as a history-sheeter. It is relevant to note that in Diwan Singh(supra), while granting relief to the petitioner therein, it was observed that the petitioner therein was a senior citizen against whom the last conviction was in the year 2003, and the last case registered against him was in the year 2007, while his case had come up for final adjudication in the year 2022.

The principles emanating from the aforesaid pronouncements squarely apply to the present case. The petitioner has not suffered any conviction. Several cases have ended in acquittal. Remaining cases are pending. No fresh criminal activity has been shown in recent years. There is no demonstrable material reflecting continued criminal propensity. In such circumstances, sustaining the petitioner's name in the history-sheet would be arbitrary, disproportionate, and violative of the guarantees enshrined under Articles 14 and 21 of the Constitution of India.

6.6. This Court is, therefore, of the considered view that the impugned action of the respondents suffers from non-application of mind, absence of objective satisfaction, and misuse of statutory discretion. The same cannot withstand judicial scrutiny.

7. Consequently, the present Criminal Misc. Petition deserves to be and is hereby allowed. The impugned communication/order dated 05.05.2023, whereby proceedings for opening/continuing

the history-sheet against the petitioner were initiated, is quashed and set aside. All consequential proceedings flowing therefrom also stand annulled. The respondents are directed to forthwith strike off the name of the petitioner from the concerned history-sheet/surveillance register maintained at the police station concerned and to carry out necessary corrections in official records expeditiously.

8. Stay applications and all pending applications, if any, also stand disposed of accordingly.

(FARJAND ALI),J

385-Mamta/-