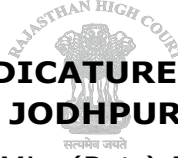




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Misc(Pet.) No. 1757/2026

Zakir Hussain S/o Fakir Mohammad, Aged About 67 Years,
Resident Of Kundala Police Station Mahi Dam Bhungra District
Banswara Rajasthan

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Rajendra Singh Rathore
For Respondent(s)	:	Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

16/03/2026

1. The present petition has been instituted by the petitioner assailing the order dated 31.10.1994 passed by the learned Addl. Sessions Judge, Banswara, in Sessions Case No.292/1992 whereby he was declared an absconder and a warrant of arrest came to be issued against him. The petitioner seeks indulgence of this Court for appropriate relief on the premise that the said proceedings were not undertaken in strict adherence to the procedure established by law.
2. I have heard the learned counsel for the parties and gone through the material as made available to this Court.
3. A perusal of the material placed before this Court reveals that a criminal case came to be registered in respect of an alleged offence of assault against accused persons namely Mushtak Ahmad, Ishaq Mohammad, Satar Ahmad and Zakir Hussain, the present petitioner. The genesis of the incident appears to lie in a



domestic discord which, owing to escalating tensions, assumed the complexion of a criminal altercation.

3.1. It further emerges from the record that upon culmination of investigation, accused Mushtakr Ahmad and Ishaq Mohammad were put to trial and were ultimately acquitted vide judgment dated 29.11.1994. Subsequently, another accused, namely Satar Ahmad, came to be arrested and charge-sheeted at a later stage, resulting in a separate trial being registered as Sessions Case No.292/1992. The said proceedings culminated in judgment dated 02.08.2021, whereby the accused was acquitted of certain charges, while being convicted only under Sections 452/34 and 366/34 IPC, and, considering the attendant circumstances, was extended the benefit of probation.

3.2. So far as the present petitioner is concerned, it is not in dispute that he remained shown as absconding for a considerable period of time. However, the petitioner has specifically pleaded that he was never made aware of the registration of the criminal case against him and that the proceedings for declaring him an absconder were not conducted in strict conformity with the statutory mandate. It is asserted that he had continuously resided at his ordinary place of residence and that neither any warrant nor any notice or summon was ever served upon him, either personally or otherwise, as required under law.

3.3. It is further averred that the petitioner is a law-abiding citizen and is now ready and willing to submit himself to the jurisdiction of the Court and to face the trial in accordance with law.



4. Learned counsel for the parties have been heard and the material available on record has been carefully scrutinized.

4.1. It is not disputed that the case emanates from a domestic dispute and that the principal accused persons have already faced trial. One set of accused persons has been acquitted outright, while in the subsequent trial the accused was granted the benefit of probation, thereby indicating that the gravity of the incident, in its ultimate adjudication, did not warrant severe penal consequences.

4.2. It is further discernible that the petitioner's alleged involvement appears to be peripheral in nature, and significantly, there is no material on record to demonstrate that summons or warrant had been duly served upon him prior to initiating proceedings for declaring him an absconder. The absence of proper service strikes at the root of the proceedings undertaken under the provisions relating to abscondence, which are required to be invoked with due circumspection and only after exhausting the prescribed procedural safeguards.

4.3. Taking into account the totality of circumstances, particularly the nature of the dispute, the outcome of trials against co-accused, the apparent procedural infirmity in declaring the petitioner as absconding, and the expressed willingness of the petitioner to face the proceedings, this Court is of the considered view that the ends of justice would be subserved by affording the petitioner an opportunity to participate in the trial, subject to appropriate conditions.



5. In light of the submissions and the circumstances of the case, the present petition is partly allowed, and the Court hereby issues the following directions:

(a) The petitioner is hereby directed to appear before the learned trial court on or before 18.04.2026, and shall, in accordance with the applicable provisions of law, submit an application for the grant of regular bail.

(b) Upon the petitioner's appearance before the trial court, the proceedings initiated for declaring him an absconder, pursuant to Sections 82 to 85 of the Code of Criminal Procedure (Cr.P.C.), shall be immediately discontinued and shall stand terminated without further ado.

(c) The warrant of arrest previously issued against the petitioner shall stand withdrawn forthwith and shall have no further effect.

(d) Upon the petitioner's appearance before the trial court and the submission of a duly executed regular bail application, the petitioner shall be released on bail on the same day, contingent upon the furnishing of appropriate bail bonds, the sufficiency of which shall be subject to the satisfaction of the learned Magistrate.

(e) Furthermore, it is directed that, until 18.04.2026, the petitioner shall not be subjected to arrest in connection with the aforementioned FIR, in the interest of justice and procedural fairness.

(f) In addition, upon his appearance, the petitioner shall deposit a sum of ₹5,000/- (Rupees Five Thousand only) before the learned trial court, as a condition for the relief granted herein.



(g) The amount so deposited by the petitioner shall, thereafter, be transferred to the account of the District Legal Services Authority, Banswara, in order to further the objectives of legal aid and the administration of justice.

(h) Subject to the full compliance with the aforementioned conditions, the petitioner shall be permitted to face the trial in accordance with the law, and he shall continue to be entitled to all legal rights and protections afforded to him under the provisions of law.

6. With the aforesaid observations and directions, the present petition stands disposed of. Stay petition and all pending applications, if any shall stand disposed of.

(FARJAND ALI),J