

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Misc(Pet.) No. 1751/2026

Ghanshyam S/o Shri Baiyaram Gurjar, Aged About 33 Years,
R/o- Mosampura @ Kankar, P.s. Behrod, Distt. Alwar.

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Mohammad Akbar
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

09/03/2026

Counsel for the petitioner submits that on 01.9.2025 petitioner could not appear before the trial court and, therefore, arrest warrant was issued on 20.09.2025. He further submitted that the petitioner is ready to cooperate in ongoing trial and prayed that standing warrant of arrest issued against the petitioner may be converted into bailable warrant.

Heard and perused the impugned order.

This Court has also considered order dated 22.10.2024 passed by Coordinate Bench of this Court in ***S.B. Criminal Misc. Petition No.7296/2024-Tarun Upadhyay Vs. State of Rajasthan.***

In view of the same this Court is inclined to allow the present misc. petition in terms of the order passed in **Tarun Upadhyay vs State of Rajasthan (supra).**

"4. Reference may be had to a judgment in case title **Mohammad Haras Vs. State of Punjab** relevant whereof, for ready reference, is reproduced as below:

"5. Heard.

6. No doubt, learned trial Court has got discretion to cancel the bail, however, it is well settled that before passing such an order, Court is required to issue notice to the accused so as to afford him an opportunity to explain as to why the bail should not be cancelled. Such course has not been adopted by learned Judge, Special Court, Sangrur in the instant case. On this ground alone, impugned order to the extent of cancellation of bail deserves to be set aside.

7. Moreover, cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken so lightly and in such mechanical manner as in the case herein.

8. In the premise, impugned order is set aside. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioner before learned trial Court. Petitioner is directed to join proceedings before learned trial Court within three weeks from today and shall continue to appear before learned trial Court without default.

9. Petition is accordingly allowed."

5. As regards the directions issued by the learned trial court to proceed against the sureties under Section 446 Cr.P.C., the same is also a serious procedural fallacy committed by the learned trial Magistrate and cannot be sustained. In this context, guidelines enunciated in judgment titled In a case titled **Varinder Singh Vs. State of Punjab** are relevant.....

6. In light of the aforesaid, the impugned order directing the forfeiture of the bail-bonds of the petitioner accused and initiating proceedings against his surety under Section 446 Cr.P.C.(corresponding

Section 491 of BNSS), *ibid*, has to be necessarily set aside. It is so ordered.

7. Consequently, the impugned order dated 27.06.2024 is set aside. The original bail bonds of the petitioner accused as well as bonds of his sureties are restored and trial to proceed further, in accordance with law.”

In view of the aforesaid order, forfeiture of the bail bonds of the petitioner–accused and initiating proceedings under Section 446 of the Cr.P.C. by the impugned orders have to be necessarily set aside.

Consequently, the impugned order dated 01.9.2025 as well as 20.09.2025 are set aside. The original bail-bonds of petitioner accused as well as bonds of his sureties are restored, and trial Court shall to proceed further in accordance with law.

Accordingly, the present misc. petition is disposed of. Pending application(s), if any, also stand disposed of.

(BALJINDER SINGH SANDHU),J