

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 3761/2026
CNR: RJHC010248322026 | URN: CRLMB / 8458U / 2026

Harshvardhan Singh Father/o Kesharsingh, Aged About 26 Years,
R/o Sihana Police Station Rashim Chittorgarh District Chittorgarh
Raj. (At Present Lodged In Dist. Jail Chittorgarh)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Dharendra Singh Daspan, Sr. Adv. Assisted by Mr. Vikas K. Bishnoi
For Respondent(s)	:	Mr. Urja Ram Kalbi, PP Mr. Ravindra Singh Bhati, AGA Mr. Harendra Choudhary Mr. Ansarul Hak Mansuri Mr. Bharat Shrimali

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

22/07/2026

1. This application for bail has been filed by the petitioner under Section 483 of BNSS (old Section 439 of Cr.P.C.) in connection with FIR No.232/2025, dated 02.06.2025, Police Station Chittorgarh, District Chittorgarh for the offences under Sections 191(2), 191(3), 190, 333, 103(1), 64(2)(a), 326(f) and 324(5) BNS, 2023 and Sections 3, 25 and 4 of the Arms Act.
2. Learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that false allegations have been levelled against him.
 - 2.1 Learned Senior Counsel further submits that although the present petitioner was named in the FIR, no specific weapon was

attributed to him therein. He further submits that even in the statements of the complainant recorded under Sections 180 and 183 of the BNSS, no weapon was assigned to the petitioner. It is also submitted that the complainant, who was examined as PW-7, admitted during his cross-examination that the FIR lodged by him did not contain any allegation that the present petitioner was carrying a pistol.

2.2 Learned Senior Counsel further submits that during the course of the trial, PW-2 Vishnu, PW-3 Balwant, PW-4 Shailendra and PW-6 Gajendra, who were cited as eye-witnesses to the incident, have turned hostile.

2.3 Referring to the postmortem report, learned Senior Counsel submits that the deceased, Ajay, succumbed to a firearm injury. He also submits that the postmortem report records only one firearm injury, which has been falsely attributed to the present petitioner. According to the prosecution evidence, it was, in fact, the co-accused Ishwar Singh who fired the shot that caused the fatal injury resulting in the death of Ajay.

2.4 Learned Senior Counsel further submits that one pistol was recovered at the instance of the present petitioner, which was marked as Exhibit 'F', whereas another pistol was recovered from the co-accused Ishwar Singh and marked as Exhibit 'X'. Both the weapons were sent to the FSL for examination to ascertain which of them had been used in the commission of the offence. The FSL report reveals that the bullet which caused the fatal injury was fired from the weapon recovered from co-accused Ishwar Singh, i.e., Exhibit 'X', and not from the pistol recovered at the instance of the present petitioner.

2.5 Learned Senior Counsel further submits that even the recovery alleged to have been effected at the instance of the present petitioner is not in accordance with law. Referring to the information given by the petitioner under Section 23 of the BSA, he submits that the weapon was not recovered from the exclusive possession of the petitioner. Rather, in the said information itself, it has been mentioned that the pistol had earlier been entrusted to one Kishan, who, at the instance of the petitioner, concealed it at a particular place from where it was subsequently recovered. Thus, the weapon cannot be said to have been recovered from the exclusive possession of the petitioner. Consequently, the recovery proceedings are vitiated and suffer from inherent legal infirmities.

2.6 Learned Senior Counsel further submits that the co-accused, Kuldeep, against whom a similar allegation of carrying a pistol was levelled in the initial version of the complainant as recorded in the FIR, has already been enlarged on bail.

2.7 Learned Senior Counsel also submits that the petitioner is in judicial custody since 06.06.2025 and the trial is likely to take a considerable time to conclude. Therefore, the petitioner deserves to be enlarged on bail.

3. Per contra, learned Public Prosecutor as well as learned counsel for the complainant vehemently oppose the bail application and submit that since the complainant was under shock and trauma immediately after the incident, the actual and complete description of the occurrence could not be incorporated in the FIR or in the statements recorded during the investigation. However, it is submitted that in his deposition before the Trial Court, the complainant (PW-7) has categorically stated that the

present petitioner was carrying a pistol in his hand at the time of the incident.

3.1 Learned counsel for the complainant further submits that as many as 17 rounds were fired during the incident and, considering the manner in which the deceased was attacked, the intention of the petitioner, along with the other co-accused, is manifest. He submits that all the accused persons, sharing a common object to commit the murder of the deceased, had formed an unlawful assembly and jointly attacked him. Therefore, merely because no weapon was specifically attributed to the petitioner in the FIR, his involvement in the commission of the offence cannot be ruled out at this stage.

3.2 Insofar as the co-accused Kuldeep is concerned, learned counsel submits that although he has been enlarged on bail, an application seeking cancellation of the said bail has already been filed and is pending consideration.

3.3 Learned Public Prosecutor further submits that the postmortem report reveals multiple injuries on the person of the deceased, which also prima facie indicates the active involvement of the petitioner in the commission of the offence.

Thus, it is submitted that the petitioner is not entitled to be enlarged on bail.

4. Heard learned counsel for the petitioner, learned Public Prosecutor and the learned counsel for the complainant and perused the challan papers so also the statements recorded so far.

5. Having considered the rival submissions, the facts and circumstances of the case, and upon perusal of the material available on record, this Court finds that although the petitioner

has been alleged to have carried a weapon at the time of the incident as per the statement of complainant (PW-7), no such allegation was made either in the FIR or in the statements of the complainant recorded under Sections 180 and 183 of the BNSS. It is further noticed that the eye-witnesses to the incident, namely, PW-2 Vishnu, PW-3 Balwant, PW-4 Shailendra and PW-6 Gajendra, have turned hostile. The complainant, who was examined as PW-7, also admitted during his cross-examination that no allegation regarding the petitioner carrying any weapon had been made in the FIR lodged by him. It is further borne out from the postmortem report that the deceased sustained a single firearm injury, and as per the FSL report, the bullet causing the said injury was fired from the pistol recovered at the instance of the co-accused Ishwar Singh, marked as Exhibit 'X'. Prima facie, the recovery proceedings pertaining to the weapon allegedly recovered at the instance of the present petitioner also appear to suffer from legal infirmities. Accordingly, without expressing any opinion on the merits or demerits of the case, this Court is of the considered opinion that the present bail application deserves to be allowed.

6. Accordingly, the bail application filed under Section 483 of BNSS is allowed. It is ordered that petitioner – **Harshvardhan Singh S/o Shri Kesharsingh Rajput** shall be released on bail in connection with the aforesaid FIR; provided he executes personal bond in the sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial Court for his appearance before that court on each and every date

of hearing and whenever called upon to do so till the completion of the trial.

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