

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

S.B. Criminal Misc(Pet.) No. 2129/2026

Atul Kumar S/o Raj Kumar, Aged About 70 Years, Resident Of
Raymond Showroom, Sector-17, 501, Plot.no.66, Mahatma Phule
Bhawan, Navi Mumbai, Vashi, Thane Maharashtra

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Narendra Kumar Lodha Alias Narendra Lodha S/o Late
Hari Singh Lodha, Resident Of Narendra And Narendra
Farm House, Santosh Marg, Bapunagar, Bhilwara, Through
Power Of Attorney Holder Dinesh Kumar Lodha S/o
Bhanwar Singh Lodha, Resident Of 5-K-7/1, Rc Vyas
Colony, Bhilwara

----Respondents

S.B. Criminal Misc(Pet.) No. 2132/2026

Atul Kumar S/o Raj Kumar, Aged About 70 Years, Resident Of
Raymond Showroom. Sector-17, 501, Plot.no.66, Mahatma
Phule Bhawan, Navi Mumbai, Vashi, Thane (Maharashtra).

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Narendra Kumar Lodha Urf Narendra Lodha S/o Late
Hari Singh Lodha, Resident Of Narendra And Narendra
Farm House, Santosh Marg, Bapunagar, Bhilwara,
Through Power Of Attorney Holder Dinesh Kumar Lodha
S/o Bhanwar Singh Lodha, Resident Of 5-K-7/1, R C
Vyas Colony, Bhilwara.

----Respondents

S.B. Criminal Misc(Pet.) No. 2149/2026

Smt. Seema Agarwal W/o Atul Kumar, Aged About 64 Years,
Resident Of Raymond Showroom. Sector-17, 501, Plot.no.66,
Mahatma Phule Bhawan, Navi Mumbai, Vashi, Thane
Maharashtra.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Manju Rani Agarwal D/o Mahendra Jain, Resident Of
Narendra And Narendra Farm House, Santosh Marg,
Bapunagar, Bhilwara, Through Power Of Attorney
Holder Dinesh Kumar Lodha S/o Bhanwar Singh Lodha,
Resident Of 5-K-7/1, R C Vyas Colony, Bhilwara.

----Respondents

For Petitioner(s) : Mr. Rajendra Charan
For Respondent(s) : Mr. Vikram Rajpurohit, P.P.

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

27/03/2026

These criminal miscellaneous petitions have been filed by the petitioners against the order dated 18.02.2026 passed by the learned Special Judicial Magistrate (NI Act Cases) No. 5 Bhilwara, whereby the permission sought by them to attend the Court through video conferencing and through counsel for the purpose of reading over the accusation in a case pending under Section 138 of the N.I. Act was rejected.

Learned counsel for the petitioners submits that the petitioners are elderly persons residing in Mumbai. It is stated that petitioner Atul Kumar is 70 years of age and his wife, petitioner Seema Aggarwal, is 64 years old, and both are dependent on each other. It is further submitted that petitioner Seema Aggarwal has undergone knee surgery and has been advised rest; therefore, she is unable to travel to Jodhpur to attend the criminal proceedings pending against her. It is also submitted that petitioner Atul Kumar is suffering from a severe slip disc issue, for which medical documents have been placed on record, and he has also been advised rest by his doctor.

Counsel for the petitioners submits that the petitioners are not evading their appearance before the Court and, in fact, desire that the trial court proceeds with the trial so that it may be concluded within time. However, due to their inability to remain

physically present, the proceedings are being delayed. It is further submitted that the matter is a summons case, and only the accusation is required to be read over to the petitioners. They are willing to appear through video conferencing, while their counsel will be present before the Court. In such circumstances, the accusation can be read over to them, and they will authorize their counsel to sign on their behalf on the order sheet.

Learned counsel for the petitioners has relied upon the judgment of the Kerala High Court in the case of ***K.V. Haneefa vs. C.B.I. arising out of CRL.REV.PET No. 809 OF 2025*** which reads as under:-

"17. Comparing the phraseology used in Section 263(1) of BNSS with that of Section 240(1) of Cr.P.C, the only addition is 'within a period sixty days from the date of first hearing on charge'. Section 263(2) of BNSS and Section 240(2) of Cr.P.C. are similarly worded. As pointed out by the learned counsel for the revision petitioner/accused No.14, as per Section 251(1) of BNSS, framing of charge in sessions cases is permitted in the virtual presence of the accused. Be it so, atleast virtual presence of the accused is necessary, at the time of framing charge.

18. While addressing this question, it is not exactly correct to say that framing charge under Section 263 of BNSS is in the physical presence of the accused, while the general principle is that presence of the accused to be secured during charge framing. Section 251(2) of the BNSS allows framing of charges in the virtual presence of the accused in sessions trial. The core principle is that, the accused should be informed of the charges against them, and this is typically done in their presence. Section 263 of BNSS outlines the procedure for framing charges, and while the Section emphasizes the importance of informing the accused, it doesn't explicitly mandate physical presence of the accused. Section 251(2) of BNSS, allows framing of charge in the virtual presence of the accused, in sessions trial. This means that if the accused is represented by legal counsel, the court can proceed with framing the charges even if the accused is not physically present in the court room. The primary purpose of framing charges is to inform the accused of the specific allegations against them so they can prepare their defense. This purpose can

still be achieved through virtual means if the accused is properly represented. Minor irregularities in the framing of charges, such as a brief absence of the accused, do not necessarily invalidate the trial unless the same would prejudice the accused's ability to defend themselves, unless in the opinion of the Court, a failure of justice, in fact, has been occurred thereby, as could be seen from Section 465 of Cr.P.C. and under Section 511 of BNSS read with Section 215 of Cr.P.C. and 238 of BNSS. In the instant case, charge was framed by passing a lengthy order, after hearing the learned counsel for the revision petitioner/accused No.14 and thus, no prejudice or failure of justice to be found."

The learned Public Prosecutor does not oppose the prayer made by the petitioners' counsel, considering that the matter pertains to a summons trial.

This Court has considered the submissions made by learned counsel for the petitioners and has perused the impugned order.

The substance of accusation is to be read out to the petitioner under Section 274 of the BNSS as it is a summons case triable by Magistrate. Section 251 BNSS provides for framing of the charges for offences triable before the Court of sessions. Section 251(2) clearly states that the charges framed shall be read over and explained to the accused person present either physically or through audio video electronic means and he shall be asked to plead guilty or claim to be tried. In such circumstances, the provisions of BNSS provide for a mode of reading over the charges through audio-video electronic means when such process can be adopted in a case triable by Court of Sessions, the same mode is certainly available in the summons cases triable by Magistrate, wherein the accusation are to be read over. This view is further supported by the judgment of Hon'ble Kerela High Court passed in the case of **K.V. Haneefa (supra)**.

It is observed that the only ground for rejection of the said application was that no documents were placed on record to show that petitioner Seema Aggarwal was under treatment or that petitioner Atul Kumar had been advised bed rest. It was also noted that the matter has been pending since 2024 for the presence of the accused.

However, the petitioners have placed on record medical documents, including the surgery certificate of petitioner Seema Aggarwal dated 16.03.2024. Considering the medical condition and advanced age of the petitioners, and the fact that the case is a summons case where the accusation can be read over through video conferencing, this Court is of the view that the petitioners' presence can be secured virtually through their counsel.

Accordingly, in the facts and circumstances of the case, these criminal miscellaneous petitions are allowed, and the order dated 18.02.2026 passed by the learned trial court is set aside. The petitioners are permitted to appear through video conferencing, and the accusation shall be read over to them in presence of their counsel who shall sign the order sheets.

With these observations, the criminal miscellaneous petitions stand allowed.

(BALJINDER SINGH SANDHU),J