

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Criminal Misc(Pet.) No. 2874/2025

Kishore Singh

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Yogesh Kumar Sharma
For Respondent(s)	:	Mr. Surendra Bishnoi, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

15/04/2025

1. By way of filing the present criminal misc. petition under Section 528 BNSS, the petitioner has prayed for the following reliefs:

"अतः याचिका प्रस्तुत कर नम्र निवेदन हैं कि अपर सेशन न्यायाधीश सोजत जिला पाली (राज.) द्वारा विचाराधीन सेशन प्रकरण सं 46/2023 बशीर्षक सरकार बनाम गंगासिंह में पारित आदेश दि. 30/01/2022 अपास्त किये जाकर याचिका स्वीकार फरमाते हुए अप्रार्थी सं 2 गंगासिंह एवं भंवरसिंह, मांगी कंवर, महावीरसिंह द्वारा कारित अपराधों अंतर्गत धारा 302, 120-बी व 406 भा. दं.सं. का भी प्रसंज्ञान लेते हुए इन सभी को साथ साथ विचारित किये जाने हेतु तलब फरमाया जाने का आदेश प्रदान फरमावे।

विकल्पेन

यदि श्रीमान न्यायालय प्र.सू.रि. सं 60/2022 पी.एस. सोजत में सभी आरोपित अभियुक्तगणों के विरुद्ध अपराध अंतर्गत धाराओं 302, 120-बी भा.दं.सं. का प्रसंज्ञान लिया जाना समुचित नहीं माने तो सभी आरोपित अभियुक्तगणों के विरुद्ध अपराध अंतर्गत धारा 406 भा.दं.सं. का भी प्रसंज्ञान लेते हुए इन सभी को साथ साथ विचारित किये जाने हेतु तलब फरमाया जाने का आदेश प्रदान फरमावे।"

2. Learned counsel for the petitioner submitted that the learned trial Court has committed grave illegality by not taking cognizance against the other co-accused persons so named in the impugned FIR for the offences punishable under Sections 302, 120B and 406 of IPC.

3. Admit.

4. Issue notice to the respondents.
5. Learned Public Prosecutor accepts notice on behalf of respondent No.1- State. Service upon respondent No.1-State is, therefore, complete. Thus, notice be issued to respondent No.2 only.
6. Heard on stay application.
7. Learned counsel for the petitioner submitted that the matter has been fixed by the competent criminal Court on 06.05.2025 for examination of the witnesses and, therefore, if the trial pending before the learned competent criminal Court is not stayed by this Court at this stage, the petitioner would suffer irreparable injury and prejudice.
8. In the opinion of this Court, the trial pending against the accused-petitioner cannot be stayed merely for the reason that cognizance in the matter has not been taken by the competent criminal Court against a few of the accused persons. This emanates from the jurisprudence pertaining to the concept of separate trials for the same offences that the evidence presented in a criminal trial is relevant only to the accused in that specific trial and has no impact or bearing upon the complicity of the co-accused, who can be tried separately.
9. Stay application stands dismissed accordingly.
10. List the matter on 19.05.2025.

(KULDEEP MATHUR),J