

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 4388/2026

Mala Ram

-----Petitioner

Versus

State of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Dharendra Singh, Sr. Advocate assisted by Ms. Priyanka Borana
For Respondent(s)	:	Mr. N.S. Chandawat, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

06/05/2026

1. The learned Public Prosecutor has supplied to this Court certain documents relating to the injuries sustained by Constable Mr. Desha Ram; the same are taken on record.
2. This Court is in receipt of a letter dated 23.04.2026 forwarded by the learned Trial Court, informing that, till now, only two witnesses have been examined out of a total of 34 witnesses, meaning thereby that 32 witnesses still remain to be examined. The fact remains that the accused has been in custody since July, 2022, and more than three years have now elapsed. This Court is of the considered view that the gravity of the charge alone cannot be a decisive factor while adjudicating a bail application.
3. Article 21 of the Constitution of India guarantees that no person shall be deprived of his right to life and personal liberty except in accordance with the procedure established by law. Time and again, the Hon'ble Supreme Court has propounded through a

plethora of judicial decisions, particularly in **Maneka Gandhi v. Union of India & Ors.** reported in (1978) 1 SCC 248, that such procedure must be fair, just, and reasonable.

3.1 The timely culmination of a trial, especially when an accused is in detention, is an integral part of the guarantee enshrined under the Constitution. Where there is a conflict between a statutory bar and a fundamental right guaranteed under the Constitution, this Court is of the firm opinion that the fundamental right must prevail over any statutory bar, impediment, embargo, or fetter on the grant of bail. Nearly four years are on the verge of being completed with the accused in detention, without effective progress in the trial. When four years have been consumed in examining only two witnesses, one can reasonably anticipate the time that would be required to examine the remaining 32 witnesses. Such a situation is wholly unacceptable. This Court is therefore of the view that an accused cannot be detained or incarcerated for an indefinite period merely to afford the prosecution additional time to produce evidence.

4. Ordinarily, a Sessions case contemplates the commencement and culmination of the trial within a reasonable period. Even taking a lenient view, detention of an accused pending trial may be justified for around two years, considering the gravity of the charge and any statutory bar. However, by no stretch of imagination can detention for four years, without a finding of guilt, be justified; it amounts to a travesty of justice. Such prolonged detention cannot be sustained merely to accommodate the

prosecutor to lead evidence for the purpose of proving charge, which is still not proved.

5. The learned Public Prosecutor is directed to call for antecedent report from the Superintendent of Police, Jalore and the Superintendent of Police, Sirohi.

6. List this matter on 20.05.2026.

(FARJAND ALI),J

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