

RAJASTHAN HIGH COURT

सत्यमेव जयते

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

S.B. Criminal Miscellaneous (Petition) No. 3429/2026
CNR: RJHC010414452026 | URN: CRLMP / 6143U / 2026

1. Om Prakash Alias Prakash S/o Ganesh Ram, Aged About 47 Years, Resident Of Village Biloo, Tehsil Makrana, District Didwana Kuchaman.
2. Kamla Devi W/o Shri Om Prakash, Aged About 46 Years, Resident Of Village Biloo, Tehsil Makrana, District Didwana Kuchaman.
3. Rakesh S/o Om Prakash, Aged About 24 Years, Resident Of Village Biloo, Tehsil Makrana, District Didwana Kuchaman.

-----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Durga Choudhary W/o Rakesh, Daughter Of Shri Mula Ram, Resident Of Jhunjhar Pura, Badu, District Didwana Kuchaman.

-----Respondents

For Petitioner(s)	:	Mr. Surendra Singh Choudhary
For Respondent(s)	:	Mr. Prem Singh Panwar, PP Mr. Ravindra Kr. Acharya

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

03/08/2026

1. The instant criminal petition has been filed under Section 528 BNSS by the petitioner seeking quashing of the FIR No.37/2026 lodged at Police Station Badu, Didwana Kuchaman for the offences punishable under Sections 85 and 316(2) of the BNS.
2. The factual report dated 06.04.2026 received by the learned Public Prosecutor from the office of the SHO, Police Station Badu, District Didwana Kuchaman is taken on record.

3. Heard learned counsel for the parties and perused the material as made available to this Court as well as gone through the niceties of the matter.

4. This Court, upon a perusal of the case file and the factual report, *prima facie* finds that the offences alleged to have been committed by the petitioner are either triable by a Court of Magistrate and/or do not contain the maximum punishment of more than seven years, and keeping in mind the provisions contained in Section 41, 41-A Cr.P.C. as well as the judgment passed by Hon'ble the Supreme Court in the case of **Arnesh Kumar vs. State of Bihar**, reported in **AIR 2014 SC 2756**, the dictum of which squarely applies *mutatis mutandis* to the present case, it is directed that in case, the arrest of the petitioner is found to be absolutely necessary by the Investigating Agencies, instead of affecting the arrest of the petitioner at once, a prior notice of fifteen days shall be given to him so that he may exercise his rights. Needless to say that the petitioner is not precluded from ventilating his grievances before this Court or trial Court if occasion so arises at an appropriate stage.

5. With the aforesaid direction, the misc. petition filed under Section 528 BNSS as well as stay application are disposed of.

(KULDEEP MATHUR),J