

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

S.B. Criminal Miscellaneous (Petition) No. 6756/2025

Naresh Kumar S/o Shri Tola Ram, Aged About 42 Years, R/o
Maliyo Ka Bas, Sumerpur, Dist. Pali, Raj.

-----Petitioner

Versus

State of Rajasthan, Through PP

-----Respondent

For Petitioner(s) : Mr. Naman Mohnot

For Respondent(s) : Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

17/04/2026

1. By way of this misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 04.08.2025 passed by learned Addl. Sessions Judge, Women Atrocities Cases, Jodhpur Metropolitan, Jodhpur in Criminal Sessions Case No.42/2022, whereby the petitioner's application seeking permission to leave India for business purposes has been rejected.

2. FIR No.391/2021 came to be registered against the accused-petitioner at Police Station Ratanada, Jodhpur for offences under Sections 376 and 342 IPC and after completion of investigation, charge sheet has been filed before the court concerned. However, vide order dated 23.11.2022 passed in S.B. Criminal Misc. Petition No.8080/2022, further proceedings in criminal case pending before learned Addl. Sessions Court, Women Atrocities Cases, Jodhpur Metro, Jodhpur has been stayed.

3. It is submitted by learned counsel for the petitioner that the petitioner intends to go out of India to Vietnam in September, 2026 for some business purposes. The petitioner therefore, moved an application before learned trial court seeking permission to go abroad. However, the learned trial court, vide impugned order dated 04.08.2025 dismissed the application of the petitioner on the ground that trial is pending against the petitioner and evidence of material prosecution witnesses are yet to be recorded. Learned counsel argues that by order dated 23.11.2022, further proceedings before learned trial court have been stayed. Learned counsel also submits that the petitioner has movable and immovable properties in India. The petitioner undertakes that as and when, the competent criminal court requires his appearance, he shall appear before it to face the trial. He further submits that every citizen has a fundamental right of freedom to move freely throughout the territory of India; and fundamental right of free to practice any profession, all to carry on any occupation, trade or business which should not be curtailed merely because the person is facing trial. Counsel submits that the petitioner is ready to furnish bank guarantee and fulfill other conditions, as imposed upon him. He thus prays that the impugned order dated 04.08.2025 may be quashed and the petitioner may be given permission to leave India to travel Vietnam till 30th September, 2026.

4. Per contra, learned Public Prosecutor vehemently opposes the prayer of the petitioner's counsel. He submits that in case, the petitioner is given permission to leave India, there is every

possibility that he would not return to India to face trial and he may abscond.

5. The right to travel outside the country has also been upheld as an important element of human liberty in India. It constitutes an integral part of the "right to personal liberty" granted under Article 21 of the Constitution. It was clearly established by the historic decision of *Maneka Gandhi v. Union of India* reported in AIR 1978 SC 597, whereby the Supreme Court has considerably enlarged the ambit of Article 21. As per the said judgment, the term "personal liberty" is much more than a guarantee against the deprivation of liberty in the traditional sense of detention and imprisonment, and covers a variety of freedoms which make life worth living and give a man's personality its full stature. The freedom of movement out of the country is one such right that makes life complete and worth living in the modern age. However, this right is not an absolute one. While the State can certainly put limitations on this right, it can do so only according to a process that is reasonable, just, and fair. For any law or administrative decree that seeks to limit this right to be valid, it needs to comply with the principles of due process and should not be arbitrary in nature.

6. Admittedly, the FIR was registered in the year 2021 and presently, there is stay on further proceedings before learned trial court. Further, the petitioner has submitted copy of land revenue records, showing that he has immovable property in his name. This Court does not find that there is reasonable apprehension of the petitioner fleeing away or absconding, disentitling him to travel abroad for business purposes. Thus, keeping in mind the

balance between the right of the petitioner to travel abroad and also right of the prosecution to duly prosecute the petitioner so as to prevent him from evading the trial, in order to meet the ends of justice, the misc. petition deserves acceptance.

7. In view of above, the misc. petition is hereby allowed. The impugned order dated 04.08.2025 is quashed and set aside. The petitioner Naresh Kumar is hereby given permission to leave India to visit Vietnam till 30.09.2026 subject to the condition that the petitioner shall furnish a personal bond in the sum of Rs.5,00,000/- with one surety bond in the likeamount with a bank guarantee of Rs.5,00,000/- to the satisfaction of learned trial court, which in the eventuality of failure of the petitioner in returning India, would be forfeited. After return to India on or before 30.09.2026, the petitioner shall mark his presence before the trial court.

8. The misc. petition stands allowed. Stay application also stands disposed of.

(ANIL KUMAR UPMAN),J