

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous II Bail Application No. 14009/2025

Mukesh Kumar Khedar S/o Late Sh. Bholuram Khedar, Aged About 38 Years, Resident Of Village Dhaluawas, Police Station-Shri Madhopur, District Sikar Raj. (Presently In Churu District Jail)

-----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecuter
2. Dinesh Kumar S/o Shishupal, Resident Of Blod Chhoti,fatehpur Sadr, District Sikar Raj.

-----Respondents

For Petitioner(s) : Mr. Raghvendra

For Respondent(s) : Mr. NS Chandawat, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

05/05/2026

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 439 Cr.P.C. at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	43/2023
2.	Concerned Police Station	Salasar
3.	District	Churu
4.	Offences alleged in the FIR	Under Sections 302, 392 and 34 of IPC
5.	Offences added, if any	-
6.	Date of passing of impugned order	-

2. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against him and his incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the accused-petitioner and he has been made an accused based on conjectures and surmises.
3. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.
4. I have considered the submissions made by both the parties and have perused the material available on record.

Co-accused – Richhpal Alias Dholiya has been granted bail by this Court on 18.04.2026 in S.B. Criminal Misc. II Bail Application No.12927/2025 on ground of prolonged custody and slow pace of trial, the operative part of the said order is being reproduced hereinbelow:-

- "5. For last three years, the petitioner is behind the bars. Despite nearly three years of detention, only six witnesses could have been examined till now. The strong plea has been raised that the circumstances are not conclusive and definite in tendency and are not unerringly pointing towards the guilt of the accused. This Court is guided by the cardinal principles enunciated by Hon'ble the Supreme Court in the case of **Sharad Birdi Chand Sarda Vs. State of Maharashtra** reported in **1984 AIR 1622** feels that there a force in the submission of counsel for the accused. Now three years have elapsed. It is easily presumable that the trial may take long time to conclude.
6. This Court has made an elaborate discussion with regard to bail of an under trial accused on the ground

of delay in culmination of the trial. This Court feels that if the accused is under detention, it is obligatory for the prosecution to complete the trial within a reasonable period. Dealing with the identical issue where the trial had been protracted for unreasonable period, an elaborate discussion has been made by this Court while deciding the S.B. Criminal Misc. Bail Application No.5916/2023 in the matter of **Lichhman Ram @ Laxman Ram Vs. State** decided on 08.02.2024. The relevant part of which would be apt to reproduce here which reads as under:-

7. This Court feels that the nature and gravity of offence and availability of material in support thereof are not the only factors to be taken into account while considering a bail application. The fact that trial is to be concluded within a reasonable period of time is imperative while considering grant of bail to an accused. It is settled principle of criminal jurisprudence that there is presumption of innocence at the pre-conviction stage and the objective for keeping a person in jail is to ensure his presence to face the trial and to receive the sentence that may be passed. This detention is not supposed to be punitive or preventive in nature. An accused is considered to be innocent until he or she or they are proven guilty in the court of law.

8. As per the fundamental rights granted to every citizen/person by the Constitution of India, the accused cannot be expected to languish in custody for an indefinite period if the trial is taking unreasonably long time to reach the stage of conclusion. An under trial prisoner, who is waiting for the trial to complete and reach a conclusion about his guilt for the alleged crime, is not only deprived of his right to a speedy trial but his other fundamental rights like right to liberty, freedom of movement, freedom of practising a profession or carrying on any occupation, business or trade and freedom to dignity are also hampered.

9. Life without liberty is like a body without soul. Freedom is the open window through

*which pours the sunlight of the human spirit and human dignity. Personal liberty of the accused is sacrosanct and quintessential to the very spirit and structure of a civilisation. Jeremy Bentham, the great English jurist, postulated that the greatest happiness of the greatest number is the end of law. The concept of civil liberty is embedded in individualism. This simply means that the purpose of the state is to help every individual in reaching their highest development and evolving into the best personality, thereby reaching a point where law and state are not required by the society. Thus, when personal liberty of an individual is threatened, his development is in peril which is a matter of great concern. Sir William Blackstone has deftly observed on page 134 of the first volume of his book, **'Commentaries on the Laws of England'** that,*

"Personal liberty consists in the power of locomotion, of changing situation or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint unless by due process of law".

*Justice cannot be presumed to have been administered merely on passing of a judgment of conviction and order of sentence or a judgment of acquittal; rather administration of justice shall be deemed to have been completed when the trial is concluded within **a reasonable period of time** and the accused as well as the complainant/victim are not made to wait for years on end to know the result of the trial.*

10. One of the founding fathers and the Third President of them United States of America, Thomas Jefferson, has rightly said that, "Rightful liberty is unobstructed action, according to our will, within limits drawn around us by the equal rights of others." Though the victim/complainant party has the right to seek justice against an accused person but that does not mean that the right of the accused to a fair trial can get

hampered. A fair trial is one which is concluded within a reasonable period of time.

11. It is not just a fundamental right but also a human right of every accused as incarceration for an indefinite period pending trial is in contravention of the universal rights that are imperative for us all sans any kind of discrimination. Justice P.N. Bhagwati has embodied the spirit of the aforementioned observation in **Maneka Gandhi Vs. Union of India (UOI) and Ors.** reported in AIR 1978 SC 597 in the following words:

"The expression 'personal liberty' in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights and given additional protection under Article 19."

12. No one is unaware of the fact that justice delayed is justice denied. On one hand, if a victim has to wait for years to see the perpetrator get his due and on the other hand, if the accused is innocent and it is so decided that he was not guilty for the crime as alleged by the prosecution, then there is no justifiable answer that can put out the fire that has been burning in the minds of the parties since the very inception of the criminal proceedings.

7. Considering the overall facts and circumstances of the case and the fact that petitioner is behind the bars for three years thus, looking to the fact that there is high probability that the trial may take long time to conclude, it is deemed suitable to grant the benefit of bail to the petitioner."
5. In view of the above as well as considering that there is high probability that the trial may take long time to conclude, it is

deemed suitable to grant the benefit of bail to the petitioner in the present matter.

6. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so.

(FARJAND ALI),J

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