

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

S.B. Criminal Miscellaneous Bail Application No. 15221/2025

Subhash S/o Sh. Rupa, Aged About 24 Years, R/o Khadiyadev,
P.s. Ambapura, District Banswara Raj. (Lodged In Dist. Jail
Banswara)

-----Petitioner

Versus

1. State Of Rajasthan, Through The Public Prosecutor.
2. Payal D/o Sh. Kishan Maida, Aged About 16 Years,
Through Sho Police Station, Danpur, District Banswara Raj

-----Respondents

For Petitioner(s) : Mr. Jubin Mehta
Ms. Sarika

For Respondent(s) : Mr. Hanuman Singh Prajapat, PP

HON'BLE MR. JUSTICE SUNIL BENIWAL
Order

17/02/2026

1. Learned counsel for the petitioner has preferred the present bail application in connection with FIR No.95/2025 dated 02.06.2025, registered at Police Station Danpur, District Banswara for the offences under Sections 137(2), 87, 64(2)(m) BNS, 2023 and 5(I)/6 of the POCSO Act, 2012. During investigation, Section 65(1) BNS, 2023 was added.

2. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 11.06.2025. It is contended that the FIR was lodged on 02.06.2025 by the victim, alleging that incident occurred on 25.03.2025. It is submitted that the victim had returned on her own on 12.05.2025 and thereafter, she herself lodged the FIR on 02.06.2025. It is argued that the delay in lodging the FIR renders the prosecution story doubtful.

2.1. It is further submitted that no missing person report was lodged by the father of the victim. No recovery has been effected

from the present petitioner and certain co-accused persons, who were initially named in the FIR, have not been arrayed as accused in the charge-sheet.

2.2. Based on the above submissions, learned counsel for the petitioner prays that the petitioner may be enlarged on bail.

3. Per contra, learned Public Prosecutor vehemently opposes the bail application and submits that at the time of the alleged incident, the victim was approximately 15 years of age and was thus, a minor. It is further submitted that in her statements recorded under Sections 180 and 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the victim specifically alleged that penetrative sexual assault was committed by the present petitioner. Considering the age of the victim, the question of consent is immaterial in the eyes of law. It is further urged that till the statement of the victim is recorded before the trial Court, the petitioner does not deserve to be enlarged on bail.

4. Having considered the rival submissions and upon perusal of the challan papers, more particularly considering the age of the victim and the specific allegations made by her in the statements recorded under Sections 180 and 183 BNSS, this Court is not inclined to grant bail to the petitioner at this stage.

5. Needless to observe that the petitioner would be at liberty to file a fresh bail application after the statement of the victim is recorded before the trial Court.

(SUNIL BENIWAL),J