

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 2282/2026
Shivcharan S/o Shri Tarachand, Aged About 46 Years, R/o Gehankar, P.S. Jairoli District Khairthal-Tijara, At Present Resident Of Tijara Phatak Ganpati Vihar, P.S. Shivaji Park, District Alwar, Rajasthan. (At Present Confined In Central Jail, Alwar (Raj.)

---Accused-Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

Connected With

S.B. Criminal 2nd Miscellaneous (Interim) Bail Application No. 4466/2026

Sarika Khanam D/o Shri Sammi Khan, Aged About 27 Years, R/o Dholidub, Police Station Vijay Mandir, District Alwar (Rajasthan) (The Accused Petitioner Presently Confined In Central Jail, Alwar).

---Accused-Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s)	:	Mr. Abhishek B. Sharma Mr. Avinash Choudhary with Mr. Satyam Bhardwaj Mr. Akansh Singh
For Respondent(s)	:	Mr. Vivek Sharma, PP with Mr. Mohan Singh, SP, PS Arawali Vihar, Alwar

HON'BLE MR. JUSTICE SAMEER JAIN

Order

25/03/2026

In S.B. Criminal 2nd Miscellaneous (Interim) Bail Application No. 4466/2026:

1. The instant interim bail application has been filed under Section 483 BNSS on behalf of accused-applicant. The accused-applicant was arrested in connection with FIR No. 113/2025 registered at Police Station Arawali Vihar District Alwar for the

offence(s) under Sections 308(2), 108, 115(2) of BNS, 2023 and the learned Trial Court amidst the offences under Sections 108, 308(2) & 61(2) of BNS, 2023 dismissed the bail application before it.

2. The present application has been moved on the ground that though the applicant is alleged of heinous offence, she is on the family way and carrying embryo of approximately 34-36 weeks. Relying upon Article 21 of the Constitution of India, it is submitted that interim bail for a period of three months may be granted to the applicant. Reliance in this regard has also placed upon plethora of judgments passed by the Hon'ble Apex Court and High Courts across the country. It is further submitted that the applicant will be taken best care of her and her upcoming child in the State of Rajasthan by her relatives and that the applicant will positively surrender after a lapse of period of three months without any delay.

3. Learned Public Prosecutor, along with the Investigating Officer has procured the history of the applicant, and the said fact of pregnancy is duly corroborated. It is submitted that the State-authorities are taking due care of the applicant.

4. Upon perusal of the material available on record, this Court has observed that the Hon'ble Supreme Court in the ratio of **R.D. Upadhyay V. State of A.P. & Ors.: (2007) 15 SCC 337** has categorically held that the concession of interim bail/temporary release should be granted in cases wherein the woman is on family way. The relevant extract of the said dictum is reproduced as under:

"45. ...3. Childbirth in prison:

(a) As far as possible and provided she has a suitable option, arrangements for temporary release/parole (or suspended sentence in case of minor and casual offender) should be made to enable an expectant prisoner to have her delivery outside the prison. Only exceptional cases constituting high security risk or cases of equivalent grave descriptions can be denied this facility.

(b) Births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned.

(c) As far as circumstances permit, all facilities for the naming rites of children born in prison shall be extended."

(emphasis supplied)

5. Having heard the submissions put forth, considering the ratios spelled out by the Hon'ble Supreme Court in a catena of judgments and relying upon Article 21 of the Constitution of India, and taking note of the fact that the applicant wants to avoid stigma to deliver baby in the judicial custody; that the applicant wants a better quality of life for herself as well as for the upcoming child in the early years which is not possible during the custody, and looking to the overall facts and circumstances but without commenting upon the merits/demerits of the case, this Court is inclined to allow the present interim bail application of the applicant-**Sarika Khanam D/o Shri Sammi Khan** for a period of three months subject to following conditions:

5.1 That the concession of the interim bail is granted to the applicant for a period of three months starting from the date of passing of this order, however, in the meantime, the applicant

shall not get indulged in any sort of unlawful, or illegal activities, directly or indirectly;

5.2 That the applicant shall report/surrender on 26th June, 2026 to the concerned jurisdictional Superintendent of Jail.

6. Accordingly, the applicant is granted benefit of interim bail subject to the conditions noted hereinabove.

7. A copy of this order be sent by fax/mail to Superintendent of Jail, District Jaipur.

8. A copy of an affidavit qua the pregnancy of the applicant as submitted by learned counsel is taken on record.

In S.B. Criminal Miscellaneous Bail Application No. 2282/2026:

List the matter after one week.

(SAMEER JAIN),J