



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 6027/2026

Vishal S/o Shri Mahaveer, Aged About 21 Years, R/o Dayavali
Police Station Lakhanpur, District Bharatpur (Raj.) (At Present
Accused Is Confined In Central Jail, Dausa).

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Swadeep Singh Hora with Mr. Sahajveer Baweja and Mr. T.C. Sharma
For Respondent(s)	:	Mr. Vivek Sharma, PP

HON'BLE MR. JUSTICE PRAMIL KUMAR MATHUR

Judgment

Reportable

29/04/2026

1. The petitioner has filed this bail application under Section 483 of BNSS in FIR No.156/2022 registered at Police Station Lakhanpur, District Bharatpur for offences under Sections 143, 302 of IPC.
2. Heard learned counsel for the petitioner as well as learned Public Prosecutor and perused the material available on record.
3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. He submits that the FIR has been registered after a delay of 06 hours as an afterthought.

Additionally, it is contended that as per the seizure memo one

country made pistol having a bore of 9 mm was alleged to be seized at the instance of the petitioner but as per the armour report the bore of the pistol was found 7.65 mm thereby casting doubts on the prosecution story.

He further submits that the petitioner is behind the bars since 01.07.2022 and after the submission of the charge-sheet only 18 witnesses out of 28 witnesses have been examined so far, which violates constitutional rights of the petitioner about the speedy trial due to prolonged incarceration.

He again submits that although the bail of the co-accused-Yogendra Singh has been rejected by the Coordinate Bench of this Court as well as by the Hon'ble Supreme Court but it is established law that the parity can be ground for grant of bail but not for rejection. In support of his contentions, learned counsel has placed reliance upon the following judgments:-

(i) *Kunhayammed and Ors. v State of Kerala and*

***Anr.* reported in (2000) 6 SCC 359 and**

(ii) *Sobha Ram v State of U.P.* reported in 1991 SCC

OnLine All 745.

It is thus prayed that trial is likely to take considerable time, and continued custody would serve no fruitful purpose. Hence, the bail application of the petitioner deserves to be allowed.

4. Per contra, learned Public Prosecutor has vehemently opposed the instant bail application and submitted that the petitioner is specifically named in the FIR along with other accused and the same was lodged promptly, without undue delay. It is apparent from the material available on record that the deceased Pradeep has died due to gunshot injury inflicted by the petitioner-Vishal which is corroborated by the recovery of the weapon at his instance and supported by testimony of eye-witnesses during the trial which indicates the active involvement of the present petitioner in the commission of a heinous offence of murder as one of the principal offenders.

It is further submitted that although the petitioner is in custody since 01.07.2022 but the benefit of bail on the basis of long incarceration cannot be extended to him in the backdrop of Section 479 of BNSS which excludes the offence for which the punishment of life imprisonment or death has been specified. Additionally, one criminal antecedent is pending against the petitioner.

It is also pointed out that the bail of similarly situated co-accused Yogendra Singh has already been considered and rejected upto the level of the Hon'ble Apex Court, therefore, the petitioner is not entitled to bail.

5. Having considered the submissions and on perusal of the record, it prima facie indicates the active involvement of the petitioner in the homicidal death of deceased Pradeep coupled with the fact that he is not only specifically named in the FIR but also the eye-witnesses have alleged particularly his role in the said incident. It is significant to note that the bail application of similarly situated co-accused Yogendra Singh has already been rejected by Hon'ble Supreme Court which obligates this Court to maintain judicial consistency unless distinguishable features are demonstrated.

6. The petitioner has failed to demonstrate any distinguishing circumstances vis-a-vis co-accused. Therefore, the plea in this regard is not tenable.

7. The judgment relied upon in the case of **Kunhyahmmed** (supra) is distinguishable as it pertains to dismissal of SLP in a civil matter whereas in the present case the Hon'ble Apex Court has considered the merits of the case after hearing both the parties while rejecting the bail.

8. The contention citing the judgment of **Sobha Ram** (supra), that parity is a consideration only for the grant and not refusal of bail cannot be accepted in its absolute terms. While parity is generally invoked to extend the benefit of bail, the rejection of the

bail to similarly situated co-accused particularly when affirmed by the Hon'ble Supreme Court constitutes a relevant factor to maintain judicial consistency unless distinguishable features are demonstrated.

9. If one accused is denied bail on indential facts, granting bail to another without distinction would lead to inconsistency and arbitrariness.

10. Thus, the submission that parity operates only as a ground for grant of bail and not for refusal is misconceived.

11. Hence, considering the gravity of the offence, the specific role attributed to the petitioner coupled with the factum of recovery of weapon, as well as in the backdrop of contentions raised by learned Public Prosecutor, this Court is not inclined to enlarge the petitioner on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application of the petitioner is hereby dismissed.

(PRAMIL KUMAR MATHUR),J