

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Application No. 196/2026
in

S.B. Criminal Miscellaneous Petition No. 1967/20263

Kashif Zuberi S/o Shri Saleem Zuberi, Aged About 36 Years, R/o
Muneer Khan Ki Masjid, Rajban, Tonk, District Tonk, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, Through P.P.
2. Madhumita Das W/o Shri Ram Pratap Singh, Aged About
39 Years, R/o Plot No. 18, Bhairoo Meena Ka Bagh, Gujar
Ghati, Amer Road, District Jaipur, Rajasthan.

----Respondents

For Applicant(s)	:	Mr. Sandeep Kumar Ms. Madhumita Das-present in person
For Respondent(s)	:	Mr. Shree Ram Dhakar, PP

JUSTICE ANOOP KUMAR DHAND

Order

28/04/2026

1. By way of filing the instant miscellaneous application, a prayer has been made to recall the impugned order dated 21.04.2026 passed by this Court while deciding S.B. Criminal Misc. Petition No.1967/2026.
2. Learned counsel for the applicant-informant-complainant-victim (hereinafter, referred as the victim-applicant) has submitted the instant application for recalling of the aforesaid impugned order on the ground that the FIR No.405/2025, registered with the Police Station Bajaj Nagar, Jaipur for the offences punishable under Sections 64(2)(m), 308(2), 351(2) BNS, 2023. Counsel further submits that the accused-petitioner was absconding,

hence, warrants of his arrest were issued under Section 37 of the Rajasthan Police Act, to apprehend him in terms of the order dated 04.12.2025 issued by the Court of the Additional Chief Judicial Magistrate No.7, Jaipur Metropolitan-I, Jaipur.

3. Counsel for the applicant submits that aggrieved by the aforesaid order, the petitioner has approached this Court by way of filing S.B. Criminal Miscellaneous Petition No. 1967/2026, wherein, the victim-applicant was implicated as party-respondent No.2 in the array of cause title. Counsel further submits that without issuing any notice to the victim-applicant and without sending any information to the victim-applicant, the arguments were heard on the very same day when the aforesaid miscellaneous petition was listed for the first time before this Court on 21.04.2026 and the effect of the arrest warrant, issued against the accused-petitioner, was kept in abeyance for a period of 15 days, till surrender of the accused before the concerned Court.

4. Counsel for the applicant submits that the aforesaid order has been passed in utter violation of the principles of natural justice, as she was never given any opportunity to oppose the aforesaid petition submitted by the accused-petitioner.

5. The victim-applicant further submits that indirectly, bail has been granted to the accused by virtue of the aforesaid impugned order dated 21.04.2026, whereas the anticipatory bail application submitted by the accused was rejected by the Special Judge (Women Atrocities Case) Jaipur Metropolitan. Thereafter, the accused-petitioner approached this Court by way of filing S.B. Criminal Misc. Bail Application No. 2740/2026 during pendency of

the instant misc. petition no. 1967/2026 wherein in absence of the victim-applicant, the aforesaid impugned order, has been passed. Counsel further submits that by passing the aforesaid order virtually bail has been granted to the accused in utter violation of the provisions contained under Section 483(2) of BNSS, 2023 which states that presence of the informant or any other person authorized by him, shall be obligatory, at the time of hearing of the bail application, however, in the instant case the aforesaid provisions has not been followed and the impugned order has been passed granting indirect bail to the accused-petitioner for a period of 15 days, subject to the condition that in case, he fails to surrender before the Trial Court within a period of 15 days, the order will not be given any effect to.

6. Counsel further submits that while passing the order dated 21.04.2026 material facts were suppressed by the accused and the same were not brought into the notice of the Court. Counsel submits that had an opportunity of hearing been provided to the informant, the correct facts would have been brought on the record, hence, by hiding the correct facts and suppressing the relevant information, the instant miscellaneous petition was filed and thereafter, the order impugned has been passed. Now, in the garb of the aforesaid order, the accused-petitioner is threatening the victim-applicant, her son and the witness, by misusing the liberty so granted by this Court. Hence, the impugned order dated 21.04.2026 be recalled and S.B. Criminal Misc. Petition No. 1967/2026 be restored to its original number so that the correct facts could be placed on record by the applicant-victim.

7. This Court vide order dated 24.04.2026 issued notices to the accused-petitioner and apart from the above, an order was also passed to serve a copy upon the counsel who appeared on behalf of the accused-petitioner in S.B. Criminal Misc. Petition No.1967/2026, directing the Office to reflect the name of the counsel in the cause list. Thereafter, the case was posted before this Court on 27.04.2026 and in compliance of the order dated 24.04.2026, the name of his counsel was reflecting in the cause title. It has been brought into notice of this Court that, the copy of the instant application was sent to counsel who appeared on behalf of the accused-petitioner on his WhatsApp, e-mail and through speed post. A certificate in this regard has also been produced on the record. Considering all these facts and circumstances of the case, this case was posted for today i.e. 08.04.2026 to ensure the presence of counsel for the accused-petitioner, so that the arguments could be heard, after providing due opportunity of hearing to counsel for the accused-petitioner. However, inspite of the receipt of the copy of the instant application, none has put in appearance on behalf of the accused, either on 27.04.2026 or today i.e. on 28.04.026.

8. Under these circumstances, the Court is left with no other option except to hear the arguments of the victim alone who has put in appearance in person.

9. Considering the arguments put forward by the victim-applicant and looking to the fact that she was implicated as party respondent No.2 in the array of cause title in S.B. Crim. Misc. Petition No.1967/2026, submitted by the accused-petitioner, against the order dated 20.12.2025 passed by the Court of the

Additional Senior Civil Judge & Additional Chief Judicial Magistrate No.7, Jaipur Metropolitan-I and neither a notice was issued to her nor she was informed about filing of the instant petition and without providing any opportunity of hearing to the victim-applicant, straight away the impugned order dated 21/04/2026 has been passed on the very same day when the matter was listed for the first time before this Court.

10. In the considered opinion of this Court, an opportunity of hearing was not provided to the victim-applicant, hence, her right to being heard under the principles of natural justice has been violated. Therefore, on this count alone, the impugned order dated 21.04.2026 is not sustainable in the eyes of law and is liable to be and is hereby recalled.

11. Accordingly, the application stands allowed, the S.B. Crim. Misc. Petition No. 1967/2026 is ordered to be restored to its original number.

(ANOOP KUMAR DHAND),J