

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

S.B. Criminal Miscellaneous (Petition) No. 4263/2017

Birendra Singh S/o Ramesh Chandar, R/o Ward No.04, Dhani Kemp Ke Pass, Kakrana, Police Station Gudha, District Jhunjhunu, Raj.

-----Petitioner

Versus

1. State of Rajasthan Through PP.
2. The Station House Officer, Police Station Gudha, District Jhunjhunu, Raj.
3. Director General Of Police, Police Head Quarter, Lal Kothi, Jaipur.
4. Superintendent Of Police, District Jhunjhunu, Raj.
5. Sheesh Ram Mehra S/o Late Shri Ram Dhan, R/o Ward No.04, Dhani Kemp Ke Pass, Kakrana, Police Station Gudha, District Jhunjhunu, Raj.
6. Sunita Kumar D/o Sheeshram, R/o Ward No.04, Dhani Kemp Ke Pass, Kakrana, Police Station Gudha, District Jhunjhunu, Raj.

-----Respondents

For Petitioner(s)	:	Mr. Govind Upadhyay
For Respondent(s)	:	Mr. Ganesh Saini, PP Mr. Yash Tiwari for Mr. A.S. Shekhawat

HON'BLE MR. JUSTICE SATISH KUMAR SHARMA

Order

16/07/2021

1. This Petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.309/2017 registered at Police Station Jhotwada, Jaipur Metropolitan for offences under Sections 420, 120B IPC and Sec.66-C Information Technology Act.

2. This matter has come up on application for vacation of the interim stay order dated 11-8-2017, whereby it was directed that further proceedings in pursuance to the FIR in question shall remain stayed.

3. Heard learned counsel for both the sides and perused the material made available on record.

4. Learned Public Prosecutor submits that investigation in the matter is stalled due to the interim stay order dated 11-8-2017, which deserves to be vacated in view of the verdict of the Hon'ble Supreme Court in the case of M/s. Neeharika Infrastructure Pvt. Limited Vs. State of Maharashtra [(2021) SCC Online SC 315].

5. Learned counsel for the petitioner submits that totally false and fabricated case has been lodged against the petitioner. The prosecutrix herself has negated the allegations and in view thereof the interim stay order was granted, which does not deserve to be vacated. The petitioner is ready to cooperate in investigation, but he should be protected from arrest.

6. In view of above mentioned judgment of the Apex Court in the case of M/s. Neeharika Infrastructure Pvt Ltd. (supra) and keeping in view all facts and circumstances of the case the interim stay order dated 11-8-2017 is modified/ clarified to the effect that investigation in the matter shall continue and the same be concluded expeditiously. The petitioner shall join the investigation and shall appear before the Investigating Officer on 23-7-2021 and as and when he is called upon to do so. After completion of investigation, the police report (challan/ FR) shall be presented before the concerned court. However, the petitioner shall not be arrested without prior notice of seven days.

7. It is made clear that in case the accused petitioner fails to join the investigation, the Investigating Officer shall be free to arrest him forthwith, if so required, subject to bail order, if any.

8. Learned Public Prosecutor is directed to call for the status report of investigation.

9. List the matter on 13-8-2021.

10. Applications No.25243/2018 and IA No.1/2021 for vacation of interim stay order respectively stand disposed of.

(SATISH KUMAR SHARMA),J

Arn/10



सत्यमेव जयते