



RAJASTHAN HIGH COURT

HIGH COURT OF JUDICATURE FOR RAJASTHAN

BENCH AT JAIPUR

सत्यमेव जयते

S.B. Criminal Miscellaneous Bail Application No. 14796/2026
CNR: RJHC020912912026 | URN: CRLMB / 27232U / 2026

Alka W/o Shivratan Mot, R/o Thethar, P.s. Rajiyasar, Distt. Sriganganagar, Currently Ward No. 38 Sangam Vihar, Suratgarh, Distt. Sriganganagar.

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Sudhir Vyas, Adv.
For Respondent(s) : Mr. Shree Ram Dhakar, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE-

25/09/2026

1. The jurisdiction of this court has been invoked by way of filing an application under Section 438 CrPC at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	39/2024
2.	Concerned Police Station	Special Police Station (SOG)
3.	District	ATS & SOG
4.	Offences alleged in the FIR	Sections 419, 420, 120-B of IPC and Sections 4,5,6 of The Rajasthan Public Examination (Prevention of Unfairmeans) Act, 1992 and Section 66D of IT Act.
5.	Offences added, if any	-
6.	Date of passing of impugned order	14.09.2026



2. The concise facts of the case as alleged in the FIR are that during investigation of FIR No. 10/2024, it came to light that an organised gang involved in paper leaks and facilitating cheating through Bluetooth devices had conspired to leak the question paper of the Supervisor (Women Empowerment) Direct Recruitment Examination, 2018. The examination was conducted by the Rajasthan Subordinate and Ministerial Services Selection Board for 180 posts, with one of the examination centres being Shri Ramsahai Adarsh Secondary School, Bikaner, operated by accused Dinesh Singh Chauhan. It is alleged that Dinesh Singh Chauhan, in connivance with Tulchharam Kaler, Paurav Kaler and Rajaram @ Raju Matrix, facilitated the question paper being taken out of the examination centre before commencement of the examination. Rajaram @ Raju Matrix allegedly photographed the question paper and forwarded it through WhatsApp to Paurav Kaler, who got it solved with the assistance of other members of the gang. The answers were thereafter allegedly supplied to candidates appearing in the examination through Bluetooth devices in lieu of monetary consideration, resulting in certain candidates being selected by use of unfair means and thereby causing wrongful gain to them and corresponding loss to deserving candidates. Accordingly, the FIR came to be registered for offences under Sections 419, 420 and 120-B IPC, Sections 4, 5 and 6 of the Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 and Section 66-D of the Information Technology Act.



3. Having apprehension of being arrested in the aforementioned matter, the petitioner has prayed for anticipatory bail on the ground that no case for the alleged offences is made out against her and her incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of anticipatory bail to the accused-petitioner and she has been made an accused based on conjectures and surmises.

4. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor as well as learned counsel for the complainant oppose the bail application and submit that the present case is not fit for grant of anticipatory bail.

5. Having considered the submissions advanced by learned counsel for the petitioner, learned Public Prosecutor and having gone through the contents of the FIR, the statements of the prosecution witnesses and the material placed on record, this Court finds that the name of the petitioner does not find mention in the FIR. It is also not the case of the prosecution that any of the prosecution witnesses, in their statements recorded during investigation, has attributed any specific role or involvement to the petitioner.

5.1 It is further noticed that the alleged occurrence pertains to the recruitment process of the year 2018 and the examination in question was conducted in the year 2019, whereas the FIR came to be registered only in the year 2024. During the course of investigation, separate charge-sheets came to be filed against different persons at different stages. However, neither in the first



charge-sheet dated 25.09.2025 nor in the subsequent charge-sheet dated 25.09.2026 is there any whisper regarding the present petitioner, either as an accused, a witness, or as a person having any connection with the alleged occurrence. Thus, the material collected during the investigation over a considerable period does not disclose any direct or indirect incriminating circumstance against the petitioner.

5.2 It is also to be noticed that the chain of investigation, as projected by the prosecution, proceeds from one disclosure to another, namely, A naming B, B naming C and C, in turn, naming D. At this stage, this Court is not inclined to enter into any conclusive adjudication with regard to the admissibility or evidentiary worth of such disclosures, which are matters to be examined at the appropriate stage of trial. However, when the question concerns the curtailment of personal liberty, the Court cannot remain oblivious to the nature and legal character of the material sought to be relied upon. The investigation is certainly required to be protected and the investigating agency ought not to be unnecessarily interfered with in the discharge of its statutory function. At the same time, the right to personal liberty, being a constitutionally protected right, cannot be curtailed merely on the basis of a chain of revelations, the legal sanctity and evidentiary value of which are themselves subject to serious scrutiny in law. More importantly, the persons from whom such revelations are stated to have emanated would ordinarily not step into the witness-box as prosecution witnesses merely for the purpose of



proving the contents of their own disclosures, nor can the prosecution, at this stage, project such statements as substantive evidence against the present petitioner. The prosecution may certainly place such material before the Investigating Officer and proceed with the investigation on the basis thereof, but an assertion made in the course of investigation does not, by itself, acquire the character of substantive evidence so as to justify continued deprivation of liberty. This Court, therefore, consciously refrains from recording any final finding upon the admissibility or evidentiary worth of the aforesaid material, lest it may prejudice either side at the stage of trial. Nevertheless, for the limited purpose of considering the question of personal liberty, it cannot be lost sight of that the material presently projected against the petitioner substantially rests upon successive disclosures and the connecting link sought to be established therefrom. The investigating agency may take the risk of proceeding upon such leads during investigation, but the Court, while exercising jurisdiction concerning personal liberty, cannot permit a person to remain incarcerated merely on the strength of a bald and simple assertion which, by itself, does not presently disclose substantive evidentiary material having the requisite legal force. The investigation must be permitted to take its own course; however, the liberty of an individual cannot be made to await the uncertain outcome of material whose evidentiary worth remains seriously open to scrutiny.





5.3 What now appears to have emerged is an endeavour, after submission of the charge-sheets, to bring the petitioner within the ambit of the prosecution case on the basis of certain material which, at this stage, does not appear to have the support of any independent or substantive evidence. A person cannot be subjected to the rigours of arrest merely because, at a subsequent stage, an investigating agency forms an opinion that such person ought also to be arrayed as an accused. The foundation for such a course must have some tangible material having a nexus with the alleged offence. Mere conjectures, surmises or premises cannot, by themselves, take the place of legal proof.

5.4 The chronology of the matter also assumes significance. The alleged recruitment pertains to the year 2018, the examination was conducted in 2019, and the criminal case was instituted only in 2024. Thereafter, investigation proceeded and charge-sheets were submitted on different occasions against other persons. Even after such investigation and filing of the charge-sheets, the petitioner did not figure therein. The belated attempt to implicate the petitioner, in the absence of any specific allegation against her in the FIR or in the statements of the witnesses and without any material of a direct or indirect nature connecting her with the alleged offence, requires to be viewed with due circumspection.

5.5 Further it must be considered that, prior to the insertion of the provision for anticipatory bail in the Code of Criminal Procedure, 1973 (now incorporated under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023), there existed no



express statutory mechanism seeking pre-arrest protection in non-bailable offences. Recognizing this legislative vacuum, the 41st Report of the Law Commission of India extensively deliberated upon the necessity and desirability of incorporating such a safeguard in the criminal procedure framework, so as to protect individuals from arrest in frivolous or vindictive prosecutions. In Para 39.9 of its Report, the Law Commission underscored the growing misuse of the criminal process wherein influential individuals were often able to orchestrate the arrest of their rivals in false or frivolous cases -sometimes with the intent to harass, disgrace, or exert pressure by ensuring their incarceration even for a few days. The Commission also acknowledged that in many such instances, there were no reasonable grounds to apprehend that the accused would either abscond or misuse the liberty granted to them on bail.

5.6 It was, therefore, recommended that where the Court is satisfied that post-arrest, bail would be a logical and inevitable consequence, it must be empowered to exercise its discretion to grant pre-arrest bail in appropriate cases. Importantly, the Commission advised that this power be conferred solely upon the High Court and the Court of Session, with directions to take effect at the time of arrest or thereafter. To this end, a draft provision-proposed as Section 497A-was outlined, which broadly resembles the anticipatory bail provision eventually codified as Section 438 in the Cr.P.C., 1973.



5.7 Significantly, the Law Commission refrained from recommending rigid statutory conditions for the grant of anticipatory bail, noting that it would neither be practicable nor desirable to attempt an exhaustive enumeration. Doing so, in their considered view, risked prejudging the case at the pre-trial stage. Instead, the Commission reposed trust in the judicial discretion of superior courts to evaluate each matter on its own merits and to refrain from making any observations that could prejudice a fair trial. The present statutory framework and jurisprudence surrounding anticipatory bail thus finds its origins in these principled recommendations. The overarching object is to prevent unwarranted arrest and detention in cases where, even after arrest, the accused is otherwise likely to be granted bail. This legislative intent continues to inform the judicial approach to pre-arrest bail applications under both the old and the new Codes.

5.8 It is pertinent to reflect upon the guiding principles enunciated by the Hon'ble Supreme Court in **Joginder Kumar v. State of U.P.**, (1994) 4 SCC 260, wherein the Court emphatically observed that "no arrest can be made because it is lawful for the police officer to do so. The existence of power to arrest is one thing, the justification for the exercise of it is quite another." The Court underscored that arrest should not be used as a punitive tool, particularly when the investigation can proceed without custodial detention. In the present case, the petitioner is a woman hailing from a socially and economically backward rural background, and the stigma attached to custodial arrest-



especially for a household woman with no antecedents and no demonstrated role in the alleged offence-would irreparably damage her dignity, social standing, and familial harmony. The disproportionate consequences of arrest in such circumstances, despite the lack of necessity for custodial interrogation, militates against the very spirit of personal liberty guaranteed under Article 21 of the Constitution. When liberty is at stake and arrest itself appears unwarranted in light of available facts, the statutory discretion vested under Section 438 Cr.P.C. must be exercised to prevent undue hardship and social prejudice. When it is presumable that she would be released on bail upon her production before the Court, there exist no compelling circumstances that would justify subjecting her to the cycle of arrest, incarceration, and subsequent release.

5.9 Reference may also be made to the judgments of the Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors.**, reported in AIR 2011 SC 312, and *Sushila Aggarwal v. State (NCT of Delhi)*, reported in AIR 2020 SC 831.

5.10 The petitioner is a lady. The offence alleged does not carry punishment of death or imprisonment for life. The statutory consideration governing arrest and detention of a woman, including the protection contemplated under Section 480 of the BNSS, also deserves due consideration. There is nothing on record, at this stage, to suggest that the petitioner is likely to abscond or evade the process of law merely because she is granted protection from arrest. Nor has any specific circumstance



been demonstrated which would make her custodial interrogation indispensable.

5.11 This Court is conscious of the fact that the investigation of offences relating to competitive examinations must be conducted fairly and effectively. At the same time, the power of investigation cannot be permitted to operate upon mere suspicion detached from supporting material. The longer the investigation has continued and the more the material has been crystallised through statements and charge-sheets, the greater is the necessity of examining whether there exists a tangible connecting circumstance before depriving a person of personal liberty.

6. In the facts and circumstances of the present case, the absence of the petitioner's name in the FIR, the absence of any specific allegation against her in the statements of the prosecution witnesses, the filing of two separate charge-sheets without any reference to her alleged involvement, and the absence of any apparent independent material connecting her with the alleged occurrence, cumulatively persuade this Court to extend the protective umbrella of anticipatory bail. The subsequent endeavour to implicate her, without a corresponding foundational material emerging from the investigation, does not, at this stage, furnish sufficient ground to justify her custodial arrest and the Court ought not to hesitate in extending the protection of anticipatory bail, particularly where the custodial interrogation of the petitioner-ladys is not shown to be imperative.



7. Needless to say, none of the observations made herein above shall affect the rights of either of the parties during trial and this Court refrains from commenting on the niceties of the matter.

8. Accordingly, the instant bail application under Section 438 Cr.P.C. is allowed. The S.H.O/I.O/Arresting Officer, Police Station SOG, District ATS & SOG in F.I.R. No. 39/2024 is directed that in the event of arrest of the petitioner she shall be released on bail, provided she furnishes a personal bond in the sum of Rs.50,000/- with two sureties in the sum of Rs.25,000/- each to the satisfaction of the S.H.O/I.O/Arresting Officer of the concerned Police Station on the following conditions:-

- (i) that the petitioner shall make herself available for interrogation by a police officer as and when required;
- (ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or any police officer, and
- (iii) that the petitioner shall not leave India without previous permission of the court.

(FARJAND ALI),J

27/YOGESH KUMAR

