



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Writ Petition No. 1646/2026

Aslam Khan S/o Khurshid Ahmed, Aged About 42 Years, R/o Masjid Ke Pass Village Hinganpur Tehsil Pingwan Districty Mewat Haryana

-----Petitioner

Versus

1. State Of Rajasthan, Through Additional Chief Secretarybdepartment Of Home Secretariat Jaipur Rajasthan
2. The Superintendent Of Police, Chittorgarh Rajasthan
3. The Station House Officer, Police Station Nimbaher District Chittorgarh Rajasthan
4. Mahaveer Singh S/o Sxhri Ganpat Singh Rathore, R/o Gangashahar Road Bikaner Rakjasthan

-----Respondents

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For Petitioner(s) : Mr. Zafar Khan  
For Respondent(s) : Mr. N.S. Chandawat, Dy.G.A.

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**REPORTABLE**

**16/04/2026**

1. By way of the present petition, the petitioner has invoked the inherent/extraordinary jurisdiction of this Court seeking appropriate relief in relation to FIR No. 590/2004 registered at Police Station Nimbahera for the offence under Section 379 IPC, with the grievance that despite lapse of an inordinate period of time, the spectre of unresolved investigation continues to loom over him, though no substantive material has ever surfaced against him.



2. Learned counsel for the petitioner submits that the impugned FIR pertains to the year 2004 and was registered for the offence under Section 379 IPC, wherein the petitioner was not named. It is contended that after investigation, seven persons alone were charge-sheeted and tried, who ultimately came to be acquitted vide judgment dated 29.02.2012 passed by the learned Additional District Judge, Nimbahera. It is further urged that no proceedings were ever initiated against the petitioner, nor was any action for abscondence or proclamation undertaken. Despite absence of incriminating material, the petitioner was once subjected to harassment by police officials, compelling him to seek anticipatory bail, which was granted by the learned Sessions Judge vide order dated 03.10.2020. Learned counsel submits that even thereafter more than five years have elapsed and no further action has been taken, yet the petitioner continues to remain under constant apprehension of coercive proceedings. It is thus contended that such indefinite pendency of investigation, without any progress or material against the petitioner, is violative of the constitutional guarantee of speedy justice under Article 21, and therefore, all proceedings qua the petitioner deserve to be dropped.

3. Per contra, learned Dy.G.A. opposed the submissions advanced on behalf of the petitioner and submitted that mere lapse of time by itself does not *ipso facto* extinguish the authority of the investigating agency to proceed in accordance with law. It is contended that the powers of investigation are statutory in character and unless the proceedings are shown to be wholly without jurisdiction or patently mala fide, interference by this





Court ought to be exercised with circumspection. Learned Dy.G.A. further submits that the petitioner having obtained anticipatory bail already stands sufficiently protected against unwarranted arrest, and no prejudice can be said to have been occasioned merely on account of pendency of the FIR. It is thus prayed that the petition deserves dismissal.

4. This Court has bestowed anxious consideration to the rival submissions advanced at the Bar and has carefully examined the material available on record. Upon such consideration, certain foundational and undisputed circumstances emerge with sufficient clarity. Firstly, the FIR in question pertains to the year 2004. Secondly, the petitioner was not named in the first information report. Thirdly, during the original course of investigation, seven other persons were proceeded against, charge-sheeted, and put to trial. Fourthly, the said trial culminated in acquittal of all the charge-sheeted accused in the year 2012. Fifthly, no proceedings of any effective nature have ever been shown to have remained pending against the present petitioner. Lastly, even after grant of anticipatory bail in the year 2020, no consequential or meaningful investigative action appears to have been undertaken. These circumstances form the backdrop against which the controversy requires adjudication.

4.1. It is significant to note that the petitioner was not named in the FIR at the inception of the criminal proceedings. Ordinarily, though non-naming in an FIR is not by itself decisive, yet where a matter remains pending for decades and no subsequent material



of probative value is shown to have emerged, such circumstance assumes substantial importance. The omission to name the petitioner at the earliest stage, coupled with prolonged inaction thereafter, prima facie indicates that the investigating agency did not possess any definite or credible material connecting him with the alleged occurrence.

4.2. The record further reveals that the investigating agency, after conducting inquiry into the matter, found it appropriate to file charge-sheet only against seven persons. Those very persons, against whom the prosecution had considered evidence sufficient for trial, were subjected to full-fledged judicial scrutiny before the competent Court and ultimately stood acquitted vide judgment dated 29.02.2012 passed by the learned Additional District Judge, Nimbahera. This circumstance cannot be viewed in isolation. Once the persons against whom tangible material was allegedly available have already been tried and acquitted, the continuance of a dormant and indefinite suspicion qua the present petitioner, against whom no stronger material is forthcoming, becomes inherently questionable.

4.3. The petitioner, therefore, stands on a footing at least no worse, if not demonstrably better, than those persons who were actually prosecuted. The prosecution has not pointed out any fresh incriminating circumstance, discovery, confession admissible in law, documentary linkage, or other legally sustainable material subsequently emerging against the petitioner after conclusion of



the earlier trial. In absence thereof, continuation of latent proceedings would amount to preserving suspicion in vacuum.

4.4. Another striking feature of the case is the complete absence of any coercive or substantive proceedings against the petitioner over the intervening years. No supplementary challan implicating him has been filed. No notice requiring participation in investigation has been shown. No warrant proceedings were initiated. No proclamation proceedings under law were undertaken. No declaration of abscondence was ever sought. No judicial order requiring his presence has been brought to the notice of this Court. Such sustained omission over a long span of time is eloquent in itself and militates against the contention that any live investigation of substance survived against the petitioner.

4.5. The grant of anticipatory bail by the learned Sessions Judge vide order dated 03.10.2020 also assumes relevance. The petitioner approached the Court only after apprehending harassment at the hands of police officials. Judicial protection was extended to him. Yet, even after lapse of more than five years thereafter, no meaningful step appears to have been taken by the investigating agency. Neither has any report been filed nor has any legally cognizable action been pursued. This prolonged dormancy post grant of anticipatory bail further fortifies the inference that the matter survives merely as a technical pendency bereft of substantive prosecutorial purpose.

4.6. The criminal justice system exists to investigate offences and prosecute offenders in accordance with law; it is not designed to



keep citizens under perpetual clouds of uncertainty. An unresolved investigation hanging over an individual for twenty to twenty-five years creates a continuing civil disability. It impairs reputation, engenders mental distress, inhibits normal social and economic life, and leaves the citizen under recurring apprehension that coercive measures may suddenly be revived. Such a state of affairs is antithetical to rule of law.

4.7. The guarantee under Article 21 of the Constitution extends beyond mere protection against unlawful detention. It encompasses fairness, reasonableness, and expedition in every stage of criminal process, including investigation. Delay which is unexplained, oppressive, and prejudicial strikes at the constitutional promise of just procedure. The Hon'ble Supreme Court in **Vakil Prasad Singh v. State of Bihar AIR 2009 SC 1822** has recognised that inordinate delay in investigation cannot be countenanced and that the sword of pending criminal proceedings cannot be permitted to hang endlessly over a person.

4.8. The ratio of the aforesaid decision applies with greater force to the present matter. Here, not only has there been extraordinary lapse of time, but no trial is pending, no discernible investigative progress is shown, and no fresh incriminating material has surfaced. If constitutional concern arises where proceedings are delayed despite active prosecution, it arises with even greater intensity where the State keeps a matter notionally alive while doing nothing in substance. Indefinite investigative inertia is no less prejudicial than delayed trial.



4.9. The contention raised by learned Dy.G.A. that mere passage of time would not by itself extinguish the power of investigation is, in principle, correct and unexceptionable. However, the present matter does not turn upon delay simpliciter. The issue here is not mere chronology, but cumulative arbitrariness flowing from a combination of factors: the petitioner being unnamed in the FIR; earlier prosecution of others ending in acquittal; absence of supplementary material; absence of proclamation or coercive steps; anticipatory bail having been granted years ago; and total investigative stagnation thereafter. These circumstances collectively distinguish the case from one of ordinary delay.

4.10. Criminal law is a serious sovereign instrument and cannot be reduced to a ceremonial file capable of being reopened at convenience after decades. To allow a stale FIR to subsist indefinitely against a person who was never named and against whom no material is forthcoming would be to legitimise perpetual insecurity. Courts, as guardians of constitutional liberty, cannot remain indifferent where procedural dormancy itself becomes oppressive.

4.11. This Court is therefore of the considered view that keeping alive the possibility of coercive action against the petitioner for an indefinite duration, without progress, without pending trial, and without demonstrable incriminating material, is manifestly arbitrary and incompatible with the right to speedy justice implicit in Article 21 of the Constitution. Continuation of such proceedings



would serve no legitimate investigational purpose and would instead amount to abuse of the criminal process.

4.12. In the totality of facts and circumstances, especially considering that:

- (i) the FIR is of the year 2004;
  - (ii) the petitioner was not named therein;
  - (iii) seven accused were charge-sheeted, tried and acquitted;
  - (iv) no supplementary material implicating the petitioner has been shown;
  - (v) no proceedings of abscondence, proclamation, or warrant were ever initiated against him;
  - (vi) anticipatory bail was granted in the year 2020; and
  - (vii) no meaningful action has thereafter been taken,
- this Court finds no justifiable reason to permit the shadow of stale criminal proceedings to continue qua the petitioner.

4.13. Judicial discretion under inherent and extraordinary jurisdiction is intended precisely to remedy such situations where technical pendency outlives substantive justice. The continuance of proceedings in the present case would be oppressive, purposeless, and contrary to the constitutional mandate of fairness. Hence, interference by this Court is not only warranted, but necessary to secure the ends of justice.

5. Consequently, the present petition deserves to be and is hereby allowed. All proceedings arising out of FIR No. 590/2004 registered at Police Station Nimbahera for the offence under



Section 379 IPC, insofar as they relate to the present petitioner, are hereby ordered to be dropped/quashed.

5.1. It is made clear that this order has been passed in the peculiar facts and circumstances of the case, particularly having regard to the extraordinary lapse of time, absence of any substantive material against the petitioner, and complete investigative stagnation over the years.

5.2. The stay petition also stands disposed of. All pending applications, if any, shall stand disposed of accordingly.

**(FARJAND ALI),J**

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