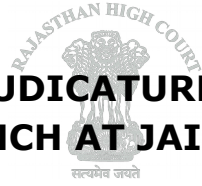




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous 2nd Bail Application No. 3007/2026

Balu Alias Ramavtar Son Of Prema, Aged About 22 Years, R/o
Jangal Tan Bhawanipura, Police Station Diggi, District Tonk (Raj.)
(At Present At Confined In District Jail, Tonk)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s) : Mr. Shantnu Bansal, Adv.

For Respondent(s) : Mr. M.S. Shekhawat, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

17/03/2026

1. This second bail application has been filed under Section 483 of BNSS on behalf of the petitioner, who has been arrested in connection with FIR No.172/2023 registered at Police Station Diggi, District Tonk for offence punishable under Section 302 of the IPC. After completion of investigation, police filed charge-sheet in this matter for offences punishable under Sections 302, 396 & 460 of the IPC.

2. The first bail application filed on behalf of the petitioner was dismissed as withdrawn by this Court vide order dated 06.08.2025 while giving liberty to renew the prayer for bail after recording the testimony of Investigating Officer Chakrawati Singh. Now, the said Investigating Officer has been examined during the course of trial as PW-14, thus, this second bail application has been filed on behalf of the petitioner.





3. It is contended by learned counsel for the petitioner that the accused-petitioner has falsely been implicated in this case. Counsel submits that FIR was filed against unknown persons and the entire prosecution case is based on circumstantial evidence. Counsel submits that entire investigation in this case has been completed and the petitioner is not required for further investigation/interrogation. Counsel further submits that the main accused in this case is Jodharam @ Mukesh @ Jodhya, who inflicted lathi blow on the head of the deceased Baba Siyaram Das, consequent to which he died. Counsel submits that the lathi used in the alleged incident was also recovered on the information given by accused Jodharam under Section 27 of the Indian Evidence Act. It is further submitted that co-accused namely Kalu @ Jeetram @ Rajesh, Omprakash @ Omya and Bablu @ Rajesh have already been enlarged on bail by this Court as well as by coordinate bench of this Court. He argues that petitioner is in custody since 09.01.2024 and as such, he has already suffered incarceration of more than two years and two months. It is contended that the trial is going at a snail's pace as till January, 2026, only 17 prosecution witnesses have been examined, out of 25 cited prosecution witnesses. It is also contended that the delay occurring in conclusion of trial is seriously violating the fundamental right of the speedy trial of the petitioner as guaranteed under Article 21 of the Constitution of India. The period of custody is always relevant consideration for grant of bail. When a trial gets prolonged, it is not open for the prosecution to





oppose the bail of the accused on the ground that the charges are very serious.

4. Per contra, learned State Counsel vehemently opposes the submissions advanced on behalf of the petitioner. It is submitted that looking to the gravity of offence and evidence which has come on record so far, the petitioner does not deserve indulgence of bail. He, thus, craves dismissal of the bail application.

5. I have considered the contentions.

6. Admittedly, the petitioner is in custody since 09.01.2024. The delay occurring in conclusion of trial is seriously violating the fundamental right of the speedy trial of the petitioner as guaranteed under Article 21 of the Constitution of India.

7. The personal liberty is a priceless treasure for a human being. It is basically a natural right. No one would like to lose his liberty. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society.

8. The expression 'Personal Liberty' in Article 21 of the Constitution is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of a person and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19 of the Constitution. 'Personal Liberty' under Article 21 of the Constitution primarily means freedom from physical restraint of person by incarceration or otherwise. The concept of "right to life and personal liberty" guaranteed under Article 21 of the Constitution includes the "right to live with dignity" and it does not





mean mere animal like existence of life. After the Hon'ble Supreme Court's decision rendered in the case of **Maneka Gandhi versus Union of India**, reported in **AIR 1978 SC 597**, Article 21 of the Constitution now protects the right of life and personal liberty of citizen not only from the executive action but from the legislative action also. A person can be deprived of his life and personal liberty if two conditions are complied with, first, there must be a law and secondly, there must be a procedure prescribed by that law provided that the procedure is just, fair and reasonable.

9. Hon'ble Supreme Court has held in catena of judgments that prolonged incarceration without trial is violative of rights of an accused and the Court should step in to protect him and no provision can take away the power of constitutional courts to grant bail on grounds of violation of fundamental rights. Prolonged incarceration is a valid ground for granting bail in the Indian judiciary system, particularly when coupled with the anticipated length of the trial. The right to liberty under Article 21 is a critical consideration, and courts should incline to grant bail to prevent undue hardship particularly when prosecution is not showing promptness in producing witnesses. However, the nature of the offence, potential risks associated with releasing the accused, and the overall context of the case must be carefully evaluated.

10. Considering the overall facts and circumstances of the case so also considering the testimony of the Investigating Officer and especially the fact that the petitioner is in custody since 09.01.2024 and co-accused namely Kalu @ Jeetram @ Rajesh,





Omprakash @ Omya and Bablu @ Rajesh have already been enlarged on bail and there is bleak chances of culmination of trial in near future as some more witnesses are yet to be examined, but without commenting anything on the merits/demerits of the case, this Court deems it just and proper to enlarge the petitioner on bail.

11. Consequently, this second bail application is allowed. It is ordered that the accused-petitioner **Balu Alias Ramavtar Son Of Prema** arrested in connection with FIR No.172/2023 registered at Police Station Diggi, District Tonk shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs.3,00,000/- and two sureties of Rs.1,50,000/- each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

12. It is made clear that the accused-petitioner shall not involve in any other offence(s) during currency of the bail and he shall mark his presence in the first week of every month in the concerned police station, till conclusion of the trial.

13. Concerned SHO shall enter attendance of the petitioner in the Roznamcha. In case the petitioner fails to mark his presence in the concerned police station, the concerned SHO is directed to immediately report the matter to the concerned Court in this regard.

14. If any breach of these conditions is reported or comes to the notice of the Court, the same shall alone be a reason for the trial Court to cancel the bail granted to the petitioner by this Court.





15. Office is directed to send a copy of this order to the concerned SHO for necessary compliance.

16. The observations made hereinabove are only for decision of this bail application and would not have any impact on the trial of the case in any manner.

(ANIL KUMAR UPMAN),J

Manoj Solanki /206

