



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

S.B. Criminal Misc(Pet.) No. 8940/2025

Istikhar Khan S/o Maksud Khan, Aged About 40 Years, A-295,  
Saraswati Nagar, Basani, First Phase Jodhpur.

-----Petitioner

Versus

1. State Of Rajasthan, Through P P
2. Rakesh Sharma S/o Shyam Sunder Sharma, 535,  
Khaturiya Colony, Shivbadi, Bikaner

-----Respondents

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For Petitioner(s) : Mr. Parvej Moyal  
For Respondent(s) : Mr. Sri Ram Choudhary, AGA

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

**Order**

**17/03/2026**

1. By way of the present Misc. Petition, the petitioner has invoked the inherent jurisdiction of this Court seeking quashing of the order dated 17.06.2025, passed by the learned Special Judicial Magistrate (N I Act Cases) No.2, Bikaner, in Criminal Case No.446/2016 (CIS No.11585/2016) whereby the petitioner was declared an absconder, and a warrant of arrest was issued against him.

2. The present petition arises from an order of the learned trial Court in a complaint under Section 138 of the Negotiable Instruments Act, whereby the accused-petitioner was declared an absconder. As per the impugned order, cognizance was taken on 16.12.2016 and the accused initially appeared on 12.01.2018; however, he failed to



remain present thereafter, leading to forfeiture of his bail bonds on 06.03.2019 and again on 27.05.2025. Despite repeated issuance of arrest warrants, the same remained unexecuted or unserved, and the presence of the accused could not be secured.

2.1. The trial Court, noting the persistent absence of the accused and lack of any updated address, concluded that he was deliberately evading the process of law and accordingly declared him an absconder, with directions for issuance of permanent arrest warrant and initiation of proceedings under Sections 82 and 83 Cr.P.C. hence the instant criminal misc. petition.

3. I have heard the learned counsel for the respective parties and has examined the material made available on record.

4. Having accorded anxious consideration to the rival submissions advanced at the Bar and upon a comprehensive appraisal of the material placed on record, this Court finds that the impugned order dated 17.06.2025, whereby the petitioner has been declared an absconder and coercive processes have been set in motion against him, does not withstand close judicial scrutiny in its present form.

4.1. While it is true that the petitioner remained irregular in attending the proceedings before the learned trial Court and failed to abide by the conditions of bail on more than one occasion, thereby inviting forfeiture of his bail bonds, yet the





recourse to the extreme measure of declaring him an absconder appears to have been undertaken in a manner not entirely consonant with the procedural discipline mandated under law. The power to declare an accused as absconding is not merely administrative in character but is imbued with serious legal consequences, and therefore, its invocation must be preceded by demonstrable adherence to the safeguards envisaged under the Code.

4.2. The record, prima facie, does not reflect that all reasonable and efficacious steps to secure the presence of the petitioner were exhausted before resorting to proceedings under Sections 82 and 83 Cr.P.C. The impugned order, thus, bears the imprint of procedural haste and does not adequately balance the necessity of securing the petitioner's presence with the imperative of ensuring fairness in the process.

4.3. At the same time, this Court cannot be unmindful of the fact that the petitioner has, by his own conduct, contributed to the delay in the proceedings. The judicial process cannot be permitted to be thwarted or rendered otiose by the indifference or recalcitrance of a litigant. Therefore, any indulgence extended by this Court must be calibrated in a manner that preserves the authority of the trial Court while affording the petitioner a final opportunity to submit to its jurisdiction.





5. Accordingly, in the peculiar facts and circumstances of the case, and in order to strike a judicious balance between the competing considerations of procedural fairness and effective administration of justice, this Court deems it appropriate to dispose of the present petition with the following operative directions:

(a) The petitioner shall present himself before the learned trial Court on or before 27.04.2026 and shall forthwith move an application seeking regular bail in accordance with law.

(b) Upon such appearance of the petitioner, the proceedings initiated against him for declaring him an absconder under Sections 82 to 85 Cr.P.C. shall stand recalled and be treated as having been dropped.

(c) The warrant of arrest issued against the petitioner pursuant to the impugned order shall stand withdrawn forthwith upon his appearance before the learned trial Court.

(d) The learned trial Court shall, on the very same day of the petitioner's appearance and upon his furnishing appropriate bail bonds to its satisfaction, release him on bail, subject to such reasonable conditions as may be deemed fit and proper.

(e) It is further directed, by way of interim protection, that till the stipulated date i.e., 27.04.2026, the petitioner shall not be arrested in connection with the proceedings in question.





It is made clear that the benefit of the aforesaid directions shall be available to the petitioner only upon his strict adherence to the timeline prescribed herein. In the event of default, it shall be open to the learned trial Court to proceed in accordance with law, without being inhibited by any observation made in this order.

6. With the aforesaid observations and directions, the present miscellaneous petition stands disposed of. Consequently, all pending applications, including the stay application, also stand disposed of.

**(FARJAND ALI),J**

42-Mamta/-

