



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

S.B. Criminal Writ Petition No. 1662/2026

Iqbal Khan S/o Shri Ismile Khan, Aged About 62 Years, R/o Musalmano Ka Vas, Krishnaganj, Tehsil Sirohi, District Sirohi, Rajasthan

----Petitioner

Versus

1. State of Rajasthan through Public Prosecutor
2. Director General of Police, Police Headquarter, Lalkothi, Tonk Phatak, Jaipur, Rajasthan
3. Superintendent of Police, Sirohi, Rajasthan
4. Deputy Superintendent of Police, Circle Reodar, District Sirohi, Rajasthan
5. SHO, Police Station Anadara, District Sirohi, Rajasthan

----Respondents

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For Petitioner(s) : Mr. Bharat Singh Rathore

For Respondent(s) : Mr. Hanuman Prajapati, PP

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**HON'BLE MS. JUSTICE REKHA BORANA**

**Reportable**

**Judgment**

**Judgment reserved on 18/05/2026**

**Judgment pronounced on 05/06/2026**

1. The present writ petition has been filed in the year 2026 raising a challenge to order dated 24.04.2014 (Annexure-2) passed by the Superintendent of Police, Sirohi, whereby the history sheet of the petitioner stood reopened from the silent bag and he was placed under active surveillance.

2. The facts are that the history sheet of petitioner Iqbal Khan initially was opened vide order dated 28.03.1986 because of six criminal cases having been registered against him between the years 1986 to 1997. However, as all the matters stood



compromised and the petitioner was acquitted on the basis of said compromise, the history sheet was placed in the silent bag vide order dated 19.05.2005. However, subsequently, FIR Nos.101 and 103, of the same date i.e., 15.08.2012 were registered against the petitioner at Police Station Anadara, District Sirohi for offences under Sections 307, 341, 323, 147, 148 and 149, IPC & Section 3(1)(1), SC/ST Act and Sections 307, 341, 323, 147, 148, 149, 427, 505, 353, 332, 353A and 295A, IPC & Section 3 of the Prevention of Damage to Public Property Act, 1984, respectively. In view of the said FIRs being registered against the petitioner, the Superintendent of Police, Sirohi passed impugned order dated 24.04.2014 directing to reopen the history sheet. It is the said order which is under challenge in the present petition.

3. It is an admitted fact that qua FIR No.101/2012, the petitioner stood acquitted on 25.09.2019 while giving him the benefit of doubt. So far as the FIR No.103/2012 is concerned, after the charge sheet being filed, the parties compromised. In terms of the said compromise, an application for withdrawal of the prosecution was filed on behalf of the State under Section 321, Cr.P.C. which however was dismissed by the learned Court. The said order stood challenged in Criminal Revision Petition No.820/2025 and the revision petition stood allowed vide order dated 08.07.2025. As a consequence, the petitioner stood discharged from all the charges.

4. Counsel for the petitioner submits that despite the petitioner having been acquitted/discharged in both the matters, the respondents have been regularly issuing preventive summons in every six months to the petitioner under Sections 108, 110 Cr.P.C./





126, 129 BNSS. As a consequence, the petitioner is required to execute a bond in every six months and the same is causing a serious mental harassment to the petitioner.

5. Counsel further submits that the petitioner has since reformed and has been actively involved in various social welfare activities and has even been issued appreciation letters by various social organizations. Reopening of the history sheet of the petitioner is in contravention to Rule 4.4 and 4.9 of the Rajasthan Police Rules, 1965 (hereinafter referred to as 'the Rules of 1965')

6. Counsel while relying upon the Co-ordinate Bench judgment of this Court at Jaipur Bench, in **Kaptan Singh Vs. State of Rajasthan & Ors.; S.B. Criminal Writ Petition No.1134/2025** (decided on 04.12.2025) submitted that the petitioner having never been convicted, no history sheet qua him could have been opened. Further, the petitioner cannot be termed to a 'habitual offender'.

7. Counsel while further relying upon the Co-ordinate Bench judgment in **Sanjay Vs. State of Rajasthan & Ors.; S.B. Criminal Misc. Petition No.792/2016 and other connected matters** (decided on 23.01.2023) submitted that the petitioner does not fall under any of the criteria/guideline as laid down therein and hence, the history sheet of the petitioner deserve to be quashed.

8. Per contra, learned Public Prosecutor submits that after the history sheet of the petitioner being kept in the silent bag in the year 2005, he again got involved in crime and two FIRs and one complaint stood registered against him in the year 2012. It is in view of the above FIRs that the history sheet of the petitioner was





reopened. It has been submitted that the petitioner played a key role in the communal riots which took place in village Krishnaganj in the year 2012. Section 23 of the Police Act, 1861 casts a duty upon the police to prevent commission of offences and to collect and communicate intelligence affecting the public peace. For the efficient discharge of their duties, the police officers are empowered by the rules of 1965 to open the history sheet of suspects and to enter their name in Surveillance Register. The history sheet of the petitioner was hence, requisite to be opened in terms of law.

9. Learned Public Prosecutor submits that the term 'habitual offender' cannot be construed in a narrow sense and the said term would definitely include a person who is repeatedly, persistently and frequently involved in criminal activities. A regular surveillance of such person is essential and is perfectly in terms of the Rules of 1965.

10. While relying upon Rule 4.9(2) of the Rules of 1965, learned Public Prosecutor submits that the Superintendent of Police is entitled to pass written orders for opening of a history sheet of a person who is reasonably believed to be habitually addicted to crime.

11. Heard the Counsels. Perused the record.

12. Before entering into the adjudication of the issues involved, it is relevant to note that it is the order of year 2014 which is under challenge in the writ petition which has been filed in the year 2026. Ordinarily, the Court would not have entertained such a delayed petition, but then, keeping into consideration the fact that





the effect of the impugned order is a recurring one, the issue deserves to be adjudicated and hence, the Court proceeds further.

13. In **Kaptan Singh** (supra), the Co-ordinate Bench, while applying the definition of 'habitual offender' as provided under the Rajasthan Habitual Offenders Act, 1953 (hereinafter referred to as the Act of 1953') held that a person can be declared to be a 'habitual offender' only if three convictions have been recorded against him. The petitioner therein had not been convicted in any of the case and hence, the Court held that he did not fall within the definition of 'habitual offender'.

14. So far as the application of the definition of 'habitual offender' in terms of the Act of 1953 on Rule 4.4(3)(b) of the Rules of 1965 is concerned, this Court is of the clear opinion that the said definition cannot be applied to the said rule. Rule 4.4(3)(b) of the Rules of 1965 specifically provides that in part (II) of Surveillance Register No.8, names of such persons can be entered who are reasonably believed to be habitual offenders or receivers of stolen property **whether they have been convicted or not.** Meaning thereby, Rule 4.4(3)(b) does not presuppose any conviction, rather, it incorporates a specific stipulation that conviction is not mandatory. In that event, the definition of 'habitual offender' as provided under the Act of 1953 which presupposes three convictions, definitely cannot be applied to the said rule. A ratio to the said effect has been laid down by a Co-ordinate Bench of this Court at Jaipur Bench, in **Laxmi Narayan Meena Vs. State of Rajasthan & Ors.; S.B. Civil Writ Petition No.13591/2014** (decided on 05.01.2017) wherein the Court observed as under:





*"I have appreciated the arguments but do not find any force therein. The Rules of 1965 does not provide definition of "habitual offender". It does not make reference or give direction to import the definition of "habitual offender" given under the Act of 1953. In absence of definition of "habitual offender" under the Rules of 1965, it can be taken from dictionary and not from the Act of 1953. If intention of the legislature would have been to apply the definition of "habitual offender", as provided under the Act of 1953 then it could have been referred specifically under the Rules of 1965 itself. It is missing therein and contrary to the intent of legislature, this court cannot apply the definition given under any other Act."*

15. Therein, the Court while taking into consideration the ratio laid down by the Apex Court in the case of ***Dhanji Ram Sharma Vs. Superintendent of Police, North Dist., Delhi Police and Ors.; AIR 1996 SC 1766*** referred to the definition of 'habitual offender' as given under the Law Lexicon and as relied upon by Hon'ble Apex Court, as under:

*"Habitual offender.-A habitual offender or a person habitually addicted to crime is one who is a criminal by habit or by disposition formed by repetition of crimes. Reasonable belief of the Police officer that the suspect is a habitual offender or is a person habitually addicted to crime is sufficient to justify action. Mere belief is not sufficient. The belief must be reasonable. It must be based on reasonable ground."*

*As per definition quoted above, habitual offender does not require conviction on three or more occasions but a person who is habitually involved to committ the*





*offences or crime. The same definition was given by the Apex Court in the case of Dhanji Ram Sharma (supra)."*

16. This Court is in concurrence with the ratio laid down in **Laxmi Narayan Meena** (supra) to the effect that the definition of 'habitual offender' as provided under the Act of 1953 cannot be applied while opening a history sheet in terms of the Rules of 1965. It is Rule 4.9(2) which would apply in such matters. Rule 4.9(2) of the Rules of 1965 provides as under:

**"4.9 History sheets when opened. - (2) A history sheet may be opened by, or under the written orders of a police officer not below the rank of Inspector for any person not entered in the surveillance register who is reasonably believed to be habitually addicted to crime or to be an aider or abettor of such persons."**

17. The above provision specifically provides that a history sheet may be opened for any person who is reasonably believed to be habitually addicted to crime or to be an aider or abettor of such person.

18. While dealing with the akin provisions of Punjab Police Rules, 1934 Hon'ble the Apex Court in **Dhanji Ram** (supra) laid down the criteria as to who can be covered under the said provisions, as under:

**"7. A habitual offender or a person habitually addicted to crime is one who is criminal by habit or by disposition formed by repetition of crimes. Reasonable belief of the police officer that the suspect is a habitual offender or is a person habitually addicted to crime is sufficient to justify**





**action under Rules 23.4 (3) (b) and 23.9 (2).** Mere belief is not sufficient. The belief must be reasonable, it must be based on reasonable grounds. **The suspect may or may not have been convicted of any crime. Even apart from any conviction, there may be reasonable grounds for believing that he is a habitual offender."**



19. Further, the Co-ordinate Bench in **Laxmi Narayan Meena** (supra), while relying upon the Apex Court judgment in **Malak Singh & Ors. Vs. State of P & H and Ors.; AIR 1981 SC 760** held as under:

*"Para 2 of the judgment gives fact of the case. Therein, appellant was convicted in a criminal case but order of conviction was set aside on appeal. The Apex Court, however, refused to interfere in the action of the Police for entering name in the surveillance register. The only direction given by the Apex Court in the case of Malak Singh (supra) and also in the case of Dhanji Ram Sharma (supra) is to take a cautious decision before entering the name in the surveillance register."*

20. Therein, while disagreeing with the earlier view in **Ramgopal Jain Vs. The State of Rajasthan & Ors.; 2015 (1) RLW 538 (Raj.)**, the Court held as under:

*"In the light of judgments of the Apex Court, I am unable to take view expressed by this court in the case of Ramgopal Jain (supra) and other cases. The interpretation to the Rule 4.4(3)(b) has been given requiring conviction even for a*



*habitual offender. It is by dividing the said provision in two parts otherwise if entire provision is read then for habitual offender and receiver of stolen property, conviction may or may not be there. The pari materia provision was considered by the Apex Court in the case of Dhanji Ram Sharma (supra) with a finding that **in a case of habitual offender, conviction may or may not be there.***

*It is also a fact that if the definition of "habitual offender" is taken from the Act of 1953 then it would even affect Rule 4.4(3) (a). Therein, requirement is only of two convictions. If intention of the legislature would have been to import the definition of "habitual offender" from the Act of 1953 requiring three convictions then provision of Rule 4.4(3)(a) and (b) would have been provided differently. If a case of habitual offender requires three convictions then in case of a person convicted twice and even if not a habitual offender, name can be entered in the surveillance register by invoking Rule 4.4(3)(a) of the Rules of 1965 making Rule 4.4(3)(b) to be redundant. The Apex Court has refused to interfere in the judgment of the High Court in the similar cases where name of habitual offender was entered in the surveillance register despite no conviction. The provisions considered therein are pari materia to the Rules of 1965."*

21. Keeping into consideration the above settled ratio and further, the specific provision of Rule 4.9(2) of the Rules of 1965, this Court is of the clear opinion that a history sheet can be opened of any person who is reasonably believed to be **habitually addicted to crime** or an aider or abettor of such person. Herein,





it is not disputed on record that after the history sheet of the petitioner having been kept in silent bag in the year 2005, he again got involved in some criminal activities as a result of which, two FIRs and one complaint were registered against him in the year 2012. It is the specific submission on behalf of the respondent Police Authorities that the petitioner was involved in the communal riots which took place in village Krishnaganj in the year 2012. In that event, the action of the Police Authorities in reopening history sheet of the petitioner in the year 2014 cannot be faulted with. The order impugned hence, does not deserve any interference.

22. But then, it is not disputed on record that qua one of the FIR of year 2012, the petitioner was acquitted and qua the second, he was discharged in the year 2019. In that event, Rule 4.12(1) of the Rules of 1965 would definitely come into picture, which provides that history sheet of a person who is no longer addicted to crime shall be transferred to his personal file. Further, Rule 4.13(4) of the Rules of 1965 provides that if a person has been of good behavior continuously for seven years, his personal file may be ordered to be destructed.

23. In view of the above provisions and keeping into consideration the fact that no further involvement of the petitioner in any crime subsequent to 2012 has been averred on behalf of the respondents, his case now definitely requires to be considered in terms of Rule 4.12 & 4.13 of the Rules of 1965.

24. Further, in **Sanjay** (supra), while dealing with a similar issue, the Court laid down a uniform criteria and observed as under:





"9.1 For the sake of brevity, this Court arrives at the following uniform criteria to determine whether an entry of a person's name in the surveillance register is justified:

(a) A person having three consecutive convictions against him, and being a habitual offender, shall be liable for continuance of entry of his name in the surveillance register, while declaring him as a history-sheeter; however, if the convictions are 15 years or before, then the history sheet/entry of his name in the surveillance register will not fall in this criteria of sustenance.

OR

(b) If a person is having more than ten cases against him, in totality, irrespective of the result, his name, at the discretion of the concerned authority, entered in the surveillance register, while declaring him as a history-sheeter, is justified and deserves continuance; but if a person is having more than ten cases and all of them are 10 years old, then the history sheet/entry of his name in the surveillance register, will not fall in this criteria of sustenance."

25. In the opinion of this Court, the case of the petitioner now deserves consideration in light of para 9.1(b) of **Sanjay** (supra) too.

26. The writ petition is hence **disposed of** with a direction to the Superintendent of Police, Sirohi to consider the case of the petitioner in light of the above observations and pass appropriate orders in accordance with law regarding the continuance/closure of his history sheet.





27. Pending applications(s), if any, also stands **disposed of**.

**(REKHA BORANA),J**

299-Arvind/Vij-

