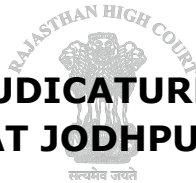




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Miscellaneous Bail Application No. 2521/2026
CNR: RJHC010188362026 | URN: CRLMB / 5692U / 2026

Shankar Ram S/o Sharvan Ram, Aged About 22 Years, R/o Village 73, GB, Police Station Anoopgarh, District Sri Ganganagar. At Present Lodged At District Jail Bikaner

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s) : Mr. Jogender Singh
For Respondent(s) : Mr. Narendra Gehlot, PP with
Mr. Om Prakash Choudhary

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

28/07/2026

1. The present bail application under Section 483 of BNSS is filed by the applicant-accused **Shankar Ram S/o Sharvan Ram** seeking bail in respect of a criminal case registered as FIR No. 164/2025 dated 07.06.2025 registered at Police Station Khajuwala, District Bikaner, for the offence under Section 123, 137(2), 127(2), 351(3), 64(1), 70(1) and 64(2) (m) of BNS, 2023 and under Section 3, 4, 5g, 6 and 5I of POCSO Act.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the matter and the investigation against him is complete and he is no more required in investigation. He further submits that there are no chance of fleeing of applicant-accused from the



jurisdiction of this Hon'ble Court. He also submits that the applicant undertakes not to repeat offence and cooperate with trial, which will take time.

3. Learned counsel for the applicant submits that for incident of 06.06.2025 a report is registered by brother of victim. He also submitted that after recovery of victim the statement of victim were recorded under Section 180 and 183 of BNSS. He also submitted that the applicant-accused was arrested on 10.11.2025 and a charge-sheet is filed against him. He further referred the material and submitted that nothing was found in medical to show that any force was used by present applicant-accused. He also submitted that the police has not collected any birth record of victim but the material indicate that her age is more than 18 years on date of incident. He further referred the statement of victim recorded as PW-1 and submitted that she voluntarily left with present applicant-accused and she stayed in company of present applicant-accused, before being restored to complainant. He also referred the statement of PW-2 and submitted that as per Jan Aadhar Card the age of victim is 18 years. He further referred medical and submitted that the doctor has opined the age of victim between 15 to 18 years, thus she is an adult female, as opinion favourable to accused has to be considered for estimation of age.
4. Aforesaid contentions were opposed by learned Public Prosecutor and submitted that the offence is serious in nature and role and involvement of applicant is established





from the material on record. He also submitted that the complainant-victim has already been informed.

5. Heard learned counsel for the applicant-accused and learned Public Prosecutor. Perused the material placed on record by both the parties.

6. On basis of a report about kidnapping, elopement and rape by present applicant-accused FIR No. 164/2025 was registered by brother of victim PW-3 at Police Station Khajuwala, District Bikaner. After registration of FIR the victim was medically examined and after arrest of present applicant-accused on 10.11.2025, a charge-sheet is filed against him.

7. As per material placed on record the statement of victim is recorded as PW-1 whereas brother of victim (complainant) is examined as PW-3 and sister of victim is examined as PW-2. We have considered the statement of victim PW-1, in particular the cross-examination, as referred by learned counsel for applicant-accused.

8. The admission of PW-2 indicate that in Jan Aadhar Card the age of victim has been mentioned as 18 years. The complainant PW-3 has admitted that as per doctor the age of victim was 15-16 years. The victim herself has admitted that doctor has suggested her age as 18-19 years. We have considered the cross-examination of victim. There is no record to show age of victim but the police has adopted ossification test which, conducted by the Medical Officer,



CSC Khajuwala District Bikaner. As per opinion the age was estimated between 15 to 18 years.

9. Present applicant-accused is in custody since his arrest on 10.11.2025 and statement of victim has already been recorded, by the trial Court. Admittedly, victim left with applicant-accused on bike in front of many people and after her discovery, a report was registered. The age of victim is doubtful and requires consideration at the time of trial decision by the trial Court.

10. This Court also finds that the applicant-accused has remained in custody for a considerable period of time and that the trial/proceedings are likely to take further time to conclude. Therefore, looking to the entirety of the facts and circumstances of the case and without expressing any opinion on the merits thereof, this Court deems it appropriate to grant bail to the applicant-accused.

11. Thus, the instant bail application filed on behalf of applicant-accused **Shankar Ram S/o Sharvan Ram**, is hereby allowed and the applicant-accused is ordered to be released on bail upon furnishing a personal bond of ₹50,000/- with two sureties of like amount to the satisfaction of the Trial Court with the following conditions:-

- (i) The applicant-accused shall not tamper with evidence or influence the witness in any manner.
- (ii) The applicant-accused shall not indulge in any criminal activity and shall not repeat any criminal offence punishable under the Law.





(iii) The applicant-accused shall attend the hearing of the Trial Court on the date fixed by the Trial court or as and when asked to appear before the Trial Court.

(iv) In case of any violation of above conditions, the bail granted to the applicant-accused shall be liable to be canceled.

12. The Registry is directed to send a copy of this order to the Trial Court through E-mail.

13. Before parting the order we want to refer Section 94 of Juvenile Justice (Care and Protection) Act, 2015 which provides for determination of age and it is necessary that Investigating Agency should know the provision of law before proceeding for investigation in a matter relating to any child or CCL as it affects the justice delivery system. The provision of Section 94 is reproduced as under:

"(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;





(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board: Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person."

13. The provision indicate that in absence of birth record an ossification test has to be conducted for determination of age. In case of **Rajni vs. State of U.P. & others** reported in 2025 INSC 737 Hon'ble Supreme Court has held that in absence of certificates under Clause (i) and Clause (ii) of Sub-Section (2) of Section 94 of JJ Act an ossification test is only approach to determine the age of a juvenile.
14. While considering Rule 12 of the JJ Rules, 2007 in case of **Shah Nawaj vs. State of UP** reported in (2011) 13 SCC 751 Hon'ble Supreme Court has observed that in absence of any document to establish the age the medical opinion from the medical board should be sought it is only as a last resort.
15. Here in this case instead of medical board a Medical Officer of CSC has given opinion about the age of victim which is not in accordance with legal provision under the JJ Act or the POCSO Act. It simply means that police is not aware about the legal provision and police infact require extensive training when it comes to compliance of legal provision. It is duty of the trial Court as well to point out the defect at



very initial stage and same can be cured during investigation but after beginning of trial the defect cannot be cured. It is expected of the Director General of Police, Rajasthan to consider extensive training to the Investigating Officer(s) who are conducting investigation in POCSO cases or in matter relating to juveniles/CCLs.

16. A copy of this order be sent to the DGP, Rajasthan for compliance.

(ASHOK KUMAR JAIN),J

11/Simran