



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

S.B. Criminal Miscellaneous (Petition) No. 9141/2026
CNR: RJHC010974832026 | URN: CRLMP / 15438U / 2026

Sushil Midha @ Bittu Midha S/o Shri Amar Chand, Aged About 62 Years, Resident Of Sri Vijaynagar, District Sri Ganganagar, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Tarachand Samriya S/o Shri Tansukh Ram, Resident Of Ward No. 19, Sri Vijaynagar, District Sri Ganganagar, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Muktesh Maheshwari with Mr. Nishant Gaba and Mr. Mudit Nagpal
For Respondent(s)	:	Mr. Deepak Choudhary, GA-cum-AAG and Mr. B.L. Bhati, AAG with Mr. Sandeep Soni, AAAG

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

20/09/2026

1. The present petition has been filed for quashing of FIR No. 258/2026 dated 19.09.2026 registered at Police Station Sri Vijaynagar, District Sri Ganganagar, for offences punishable under Sections 223(a), 126(2), 352 and 351(2) of the BNS, 2023 and Sections 3(1)(r) and 3(1)(s) of the SC/ST Act.
2. At the outset, it is noted that today is Sunday and a holiday, however, on permission been granted by the Hon'ble the Chief Justice, the matter is being heard today.



3. Learned counsel for the petitioner submits that the petition has been filed without certified copy of the FIR as there was urgency in the matter and the FIR in question was lodged yesterday i.e. on 19.09.2026. He therefore prays that short accommodation may be granted to place the certified copy of the FIR on record and prays that the matter may be heard on the basis of the photocopy of the FIR placed on record alongwith the petition.

4. Considering the submissions made above, the requirement of submitting certified copy is waived for the time being.

5. Learned GA-cum-AAG raises a preliminary objection and submits that considering the nature of allegations, more particularly under SC/ST Act, the present petition should be heard only after giving opportunity of hearing to respondent No.2 in compliance with Section 15-A of the SC/ST Act.

5.1. He also submits that as a routine measure, interim relief of taking no coercive action or stay on arrest ought not to be granted considering the judgment rendered by Hon'ble the Supreme Court in the case of **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Ors. (AIR 2021 SC 1918)**. Further, the present circumstances do not fulfill the requirement as contemplated in the said judgment, therefore, the petitioner is not entitled to any relief.

6. As far as the objection of the learned AAG that the present petition cannot be heard without serving notice to the respondent No.2 is concerned, this Court is conscious of the fact that in a bail matter so also in any other criminal matter wherein the offences under SC/ST Act are involved, considering the mandatory



requirement of Section 15-A of the SC/ST Act, the notices are issued and the matter is heard after making effective service upon the private respondent. Despite the said fact, this Court cannot loose sight of the fact that the present petition has been filed apprehending arrest at the threshold when the elections are scheduled tomorrow i.e. on 21.09.2026. In these extraordinary circumstances coupled with the fact that the matter is not being heard finally, this Court deems it appropriate to hear the present petition on the stay application.

7. This Court has taken note of the judgment referred by learned AAG and has considered the observations made by Hon'ble the Supreme Court. A perusal of the judgment reflects that in case interim relief is granted and reasons for the same ought to be recorded by the Court so as to reflect application of mind by the Court. Keeping into consideration the same, this Court deems it appropriate to hear the parties on the stay application.

8. Learned counsel for the petitioner submits that the lodging of the present FIR is gross abuse of the process of law. He further submits that the petitioner came to be elected as a Ward Member on 14.09.2026 of Municipal Council Shri Vjaynagar, District Sri Gangangar. Later, he was declared as a Candidate to contest further election for the post of Chairperson on 18.09.2026 for which the election is scheduled on 21.09.2026.

8.1. Soon after he was declared as a Candidate for the post of Chairperson, the present FIR came to be lodged on 19.09.2026 alleging the date of incident to be of 16.09.2026. He further submits that a bare reading of the FIR indicates that the FIR is



lodged just before the elections with a purposeful agenda to prevent the petitioner from participating in the elections scheduled tomorrow.

8.2. While referring to the FIR, learned counsel submits that the complainant has stated that though the incident occurred on 16.09.2026, however, the FIR was lodged later on 19.09.2026 when two unknown persons coming on a motorbike attempted to stop the present petitioner and apprehending some untoward incident, the complainant was compelled to lodge the present FIR.

8.3. All offences as alleged in the FIR are bailable and the offences under Section 3(1)(r) and 3(1)(s) of the SC/ST Act have been added just to make the offences non-bailable and the petitioner is apprehending arrest and also might not able to participate in the election which is scheduled tomorrow i.e. on 21.09.2026.

8.4. He further submits that the word 'Neech' which is stated to have been used by the present petitioner at a public place cannot attract offence under the SC/ST Act. In support of his submissions, learned counsel places reliance on the judgment passed by a Coordinate Bench of this Court in the case of **Dr. Deepak Arora Vs. State of Rajasthan and Anr.** passed in **S.B. Criminal Misc. (Petition) No.7662/2025** (decided on 07.02.2026).

8.5. Learned counsel submits that the lodging of the FIR on 19.09.2026 is a crucial factor which is required to be considered, more particularly when the elections are scheduled on 21.09.2026.



8.6. Based on the above submissions, he submits that as an ad-interim measure, the petitioner may be given protection so as to participate in the democratic process of contesting election.

9. Per contra, learned GA-cum-AAG vehemently opposes the submissions made by the learned counsel for the petitioner and submits that a bare reading of the FIR clearly makes out offences as alleged under the BNS, 2023 so also offences under the SC/ST Act. He submits that allegation of lodging FIR being politically motivated is absolutely incorrect. The police have registered FIR considering the offences alleged and, therefore, there is no case of granting any indulgence in the present case.

10. Heard on stay application.

11. This Court takes note of the fact that the offences in the present case are alleged to have been committed on 16.09.2026 and the FIR was lodged on 19.09.2026 i.e. after a delay of about 3 days. Further, the FIR has been lodged on 19.09.2026 i.e. soon after the petitioner was declared as a Candidate for election for the post of Chairperson on 18.09.2026. Also, all the offences alleged against the petitioner in the impugned FIR are bailable except the offences under the SC/ST Act. Therefore, considering the said circumstances as well as the totality of the facts and circumstances of the case, this Court as an interim measure, deems it appropriate to grant protection to the petitioner.

12. In view of the above, issue notice. Issue notice of stay application as well.

12.1. Since respondent no.1 – State is being represented by learned AAG, notices need not be issued to it. Let notices be issued to respondent no.2 only. Returnable on 07.10.2026.





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13. Meanwhile and till the next date, the petitioner shall not be arrested in connection with the FIR No. 258/2026 dated 19.09.2026 registered at Police Station Sri Vijaynagar, District Sri Ganganagar.

14. As noted above the certified copy of the FIR has not been filed by the petitioner, however, this Court has heard the matter on basis of the photocopy of the FIR available on record. In view of this, learned counsel for the petitioner is directed to positively file the certified copy of the FIR by the next date.

15. The web-copy of the present order shall be treated as authentic for all purposes.

(SUNIL BENIWAL),J

1/Ajay Singh