



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

S.B. Criminal Miscellaneous (Petition) No. 8482/2026
CNR: RJHC010897202026 | URN: CRLMP / 14253U / 2026



1. Mahesh Kumar Gupta S/o Late Shri Ramkumar Gupta, Aged About 65 Years, R/o B-33, Nagnechi Ji Temple Road, Karni Nagar, Bikaner, Rajasthan.
2. Chanda Gupta W/o Mahesh Kumar Gupta, Aged About 56 Years, R/o B-33, Nagnechi Ji Temple Road, Karni Nagar, Bikaner, Rajasthan.
3. Vinayak Gupta S/o Mahesh Kumar Gupta, Aged About 30 Years, R/o B-33, Nagnechi Ji Temple Road, Karni Nagar, Bikaner, Rajasthan.

----Petitioners

Versus

State Of Rajasthan, Through Public Prosecutor

----Respondent

For Petitioner(s)	:	Mr. Rajesh Saharan
For Respondent(s)	:	Mr. Vineet Jain, Sr. Adv. Assisted by Mr. Rajiv Bishnoi Mr. Narendra Gehlot, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

29/09/2026

1. The instant criminal miscellaneous petition under Section 528 of the BNSS has been preferred by the petitioners seeking quashing of the order dated 07.08.2026 passed by the learned Additional Chief Judicial Magistrate No. 4, Bikaner, whereby the application preferred by the petitioners seeking permission to travel abroad came to be rejected and the Look Out Circular issued against them was maintained.



2. The concise facts of the case are that an FIR No. 158/2026 came to be registered at Police Station Gangashahar, District Bikaner, for offences under Sections 318(4), 338, 336(3), 316(2) and 61(2) of the BNS, 2023, which is already under challenge before this Court, wherein protection against arrest has also been granted to the petitioners. The petitioners, whose son was scheduled to undergo a surgical procedure in the United States of America, sought temporary permission to travel abroad for attending to him and had placed on record the medical documents, passports and confirmed travel itinerary. The application was rejected by the learned trial Court vide order dated 07.08.2026, principally on the ground of pending investigation and apprehension of the petitioners leaving India to evade the legal process. Aggrieved thereof, the present petition has been preferred seeking quashing of the said order and permission to undertake foreign travel subject to such conditions as may be imposed by the Court.

3. Heard learned counsel appearing on behalf of the petitioners and perused the material available on record.

4. At the outset, it may be noticed that the petitioners are already protected against arrest in connection with the subject FIR pursuant to the order passed by the coordinate Bench, wherein, upon a prima facie consideration of the material on record, the dispute was noticed to have the contours of a transactional dispute. The said protection continues to operate and has neither been vacated nor modified. For ready reference, the order dated



24.06.2026 passed by the coordinate Bench is reproduced hereinbelow:-

“Learned counsel for the petitioners submits that the petitioners as well as the complainant were directors of the company in question. The FIR has been registered at the instance of the complainant alleging certain irregularities in the business transactions carried out by the petitioners during the course of business. It is further submitted that the business itself had already been sold in the year 2025 and at the relevant point of time, the complainant as well as the petitioners were all part of the management of the company and were acting as directors.

Learned counsel submits that throughout the period when the business was being run, both sides were jointly associated with the affairs of the company and regular yearly audits were conducted. Thereafter, they have already sold the business together in the year 2025. It is argued that despite the said position, the present FIR has now been lodged on 18.06.2026 alleging certain irregularities pertaining to the previous years, i.e. the period prior to sale of the business.

It is further submitted that the dispute between the parties is essentially civil in nature and has arisen on account of disputes between family members, which has been sought to be given a criminal colour. On the aforesaid premises, it is prayed that FIR deserves quashing and the petitioners be protected from coercive action in the meanwhile.

Per contra, learned Public Prosecutor has vehemently opposed the submissions made by the petitioner.

This Court has considered the submissions and perused the record. Prima facie, it appears that complainant and the petitioner were all directors of the company and were associated with the business during the relevant period. Subsequently, both the parties have sold the business in the year 2025 and the FIR has been now lodged on 18.06.2026 alleging irregularities pertaining to earlier period.

At this stage, the matter appears to have overtones of a financial dispute between family members, which has been sought to be given criminal colour. Hence, this Court is inclined to interfere.

In view of the same, issue notice to respondent No.2, returnable within a period of four weeks.





In the meanwhile, the petitioners shall not be arrested in connection with FIR No.158/2026 registered at Police Station Gangashahar, District Bikaner."

4.1 The submission advanced by learned Senior Counsel Mr. Vineet Jain, appearing for the respondent, that the medical advice is merely on an OPD basis and that the same does not contemplate any hospitalisation, finds no substance. Hospitalisation cannot be regarded as a *sine qua non* for a parent to attend upon an ailing child. The concern and anxiety of parents for the wellbeing of their son cannot be measured by the nature of medical advice or be made dependent upon his admission in a hospital.

4.2 In the Indian social and cultural milieu, the bond of love and affection between parents and their child carries its own significance. If a son is unwell, the natural instinct of the parents is to rush to his side. When the child is stated to be suffering from a medical condition and is scheduled to undergo a surgical procedure, the desire of the parents to remain with him is not only understandable but a natural human response. Such a genuine familial circumstance cannot be brushed aside merely on the ground that the medical advice was rendered on an OPD basis.

4.3 It is also apposite to clarify that the protection from arrest granted by the coordinate Bench cannot be construed as conferring immunity from investigation. The investigation is at liberty to proceed in accordance with law and there is no order restraining the investigating agency from carrying out the same. At the same time, from the material presently placed before this



Court, no specific necessity for the personal presence of the petitioners during the course of investigation is discernible. Their travel abroad, subject to appropriate condition, therefore, does not appear to impede the investigation. The distinction between the pendency of investigation and the necessity of securing the physical presence of the accused at every stage of such investigation also cannot be lost sight of. Had the matter reached the stage of trial, the question of the proceedings being impeded by the absence of the accused could have arisen for consideration. At the present stage, however, the investigation can proceed independently, and no material has been brought to the notice of this Court demonstrating that the petitioners' temporary travel would obstruct or prejudice the same. Thus, the pendency of investigation, by itself, cannot be treated as an absolute impediment to the petitioners' temporary foreign travel, particularly when they are already protected against arrest by an order of the coordinate Bench and have expressed their willingness to abide by such terms and conditions as may be imposed by this Court.

5. The similar issue has also been dealt by the Coordinate bench in the case of **Mohammed Sadeeqe v. State of Rajasthan [S.B. Criminal Misc(Pet.) No. 5848/2024]** dated **02.09.2024**. In this case, it was asserted that the petitioner had to attend the family event and for that he was given a short accommodation to travel abroad. For ready reference, the relevant paragraphs of the order are being reproduced herein below:-



"4. I am of the view that the petitioner, though an accused, but still has a fundamental right to personal liberty, which includes the right to travel and participate in significant family events. Denying him the opportunity to attend his daughter's engagement ceremony would cause irreparable emotional harm and infringe upon his right to maintain familial bonds. No doubt, if he is found to be a flight risk, restrictions can be imposed by the trial court to ensure his return.

5. It appears that the petitioner has no intention of evading the judicial process. He is willing to comply with all conditions to be set by the trial court, including furnishing a personal bond, undertaking to return to India by a specified date, and submitting relevant travel documents such as air tickets. There is thus no reasonable apprehension that he will misuse the liberty granted to him.

6. Moreover, in the present case, out of the total 27 witnesses, the statement of only one witness has been recorded, indicating that the trial is moving at a slow pace. The conclusion of the trial will take an unduly long time, and it is unreasonable to deny the permission for daughter's engagement indefinitely based on the mere pendency of the trial.

7. The petitioner's brief travel for the engagement ceremony of his daughter will not adversely impact the ongoing trial. The trial court shall ensure that dates of his travel do not conflict with any scheduled court proceedings, and the petitioner's presence can be ensured by providing his updated contact details.

8. The suggestion that the petitioner can attend the ceremony virtually seems unjustified and disregards the cultural and emotional significance of such an event. Virtual presence cannot substitute the physical presence of a father at his daughter's engagement, which is a once-in-a-lifetime event for both father and daughter.

9. In the premise, the petitioner is granted liberty to file a fresh application seeking permission to travel abroad for attending the engagement ceremony of his daughter, by providing details of the date of departure, arrival in India, proof of air tickets, and other relevant documents. Upon the petitioner's furnishing of the usual undertaking, the trial court shall grant the necessary permission subject to other reasonable conditions which it may deem fit to impose.

10. The petition is disposed of accordingly.

11. All pending application(s), if any, shall also stand disposed of."





6. In this view of the matter, the Criminal Misc. Petition is allowed. The order dated 07.08.2026 passed by the learned Additional Chief Judicial Magistrate No. 4, Bikaner, is hereby quashed and set aside. The petitioners are permitted to go to abroad for a limited period i.e. for four months after their immigration check out. The petitioners are not on bail, their petition seeking quashing of the entire proceedings is pending consideration before this Court, and an interim order passed therein is presently operating in their favour. Consequently, the question of furnishing any bail bonds or sureties does not arise. It is further made clear that his foreign visit shall not exceed more than four months from their immigration. An undertaking to the aforesaid effect, furnished on their behalf before this Court, would suffice.

7. The officers of the Ministry of External Affairs, the Immigration authorities, and the police authorities shall not obstruct or impede the petitioners in any manner in their travel abroad and shall facilitate their passage for the said purpose. Any Look Out Circulars issued against the petitioners shall not be effectuated to impede or obstruct their travel.

8. The stay petition and all pending applications also stands disposed of.

(FARJAND ALI),J

43/Mamta Tak

