Through E-mail

RAJASTHAN HIGH COURT, JODHPUR

No. Gen/XIX/Misc/1648/2026/.1904 **Date : 17/11/2026**

From : Registrar General,
Rajasthan High Court,
Jodhpur.

To : **All the District & Sessions Judges,**
Rajasthan.

Sub : Regarding circulation of Reportable Order Dt. 12.10.2026 passed in S.B. Criminal Miscellaneous Bail Application No. 15434/2026.

Sir,

With reference to the above cited subject, I am directed to send herewith a copy of the Reportable Order Dt. 12.10.2026 passed by Hon'ble Rajasthan High Court, Bench Jaipur in S.B. Criminal Miscellaneous Bail Application No. 15434 of 2026 titled **Ashok Kumar vs. State of Rajasthan** with request to circulate the same amongst all the Presiding Officers in your Judgeship for information and compliance of directions therein.

Yours Sincerely,

Encl.: As above.

16.11.2026

REGISTRAR (ADMN.)

39285
25/09/26

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

S. B. CRIMINAL MISC. BAIL APPL. NO. 15434 /2026

Petitioner-Accused:-

Ashok Kumar Son of Shti Battu, Aged 35 Years, Resident of Mahamadpur, Police Station Kherali Mode, District Bharatpur, Rajasthan.
(Presently Confined at District Jail Hindaun City (Karauli) (Rajasthan)).

Versus

State of Rajasthan through P.P.

...Respondent

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

राजकीय अधिवक्ता
कार्यालय उच्च न्यायालय
जयपुर
राज. 89
क्रमांक
दिनांक 25/9/26

S. B. CRIMINAL MISC. BAIL APPLICATION UNDER SECTION 483 BHARTIYA NAGARIK SURAKSHA SANHITHA, 2023 IN FIRST INFORMATION REPORT NO. 138/2026 DATED 28.04.2026 REGISTERED AT POLICE STATION TODABHIM, DISTRICT KARAULI, FOR THE OFFENCES UNDER SECTION 78(2)64(1),61(2) 70(1), BHARTIYA NYAY SANHITHA, 2023 (B.N.S.2023)& UNDER SECTION 66,67 OF INFORMATION TECHNOLOGY(AMENDMENT) ACT,2008 AGAINST THE ORDER DATED

02.09.2026 PASSED BY MS. AMBIKA SONI(RJS) (DISTRICT JUDGE CADRE), THE LEARNED ADDITIONAL SESSION JUDGE No.1, HINDOUN-CITY DISTRICT KARAULI(RAJASTHAN), WHEREBY BAIL APPLICATION NO. 577/2026 FOR THE OFFENCES UNDER SECTION 64(1),64(2)(M) BHARTIYA NYAY SANHITHA, 2023 (B.N.S.2023)& UNDER SECTION 67 OF INFORMATION TECHNOLOGY(AMENDMENT) ACT, 2008, OF THE PRESENT PETITIONER HAS BEEN REJECTED.

राजस्थान उच्च न्यायालय खण्ड पीठ की प्रतिलिपि
सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 15434/2026
CNR: RJHC020950742026 | URN: CRLMB / 28504U / 2026

Ashok Kumar S/o Shri Battu, Aged About 35 Years, R/o Mahamadpur, Police Station Kherali Mode, District Bharatpur, Rajasthan. (Presently Confined At District Jail Hindaun City (Karauli) (Rajasthan)).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Mr. Kapil Sharma, Adv.
For Respondent(s) : Mr. Amit Kumar Gupta, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

REPORTABLE

12/10/2026

1. The instant bail application has been filed under Section 483 of BNSS on behalf of the petitioner, who has been arrested in connection with FIR No.138/2026 registered at Police Station Todabhim, District Karauli for offences punishable under Sections 78(2), 64(1), 61(2) and 70(1) of the Bharatiya Nyaya Sanhita, (in short 'BNS') 2023 and Sections 66 & 67 of the Information Technology (Amendment) Act, 2008. After completion of investigation, police filed charge-sheet in this matter for offences punishable under Sections 64(1) & 64(2)(m) of BNS, 2023 and Section 67 of the Information Technology (Amendment) Act, 2008. The bail is sought on the ground of default, under Section 187(3) of BNSS, as charge-sheet was not filed within the statutory period.

2. It is contended by learned counsel for the petitioner that the petitioner was arrested on 08.05.2026 and was produced before the concerned Magistrate on 09.05.2026, where his judicial remand was extended till 22.05.2026. Counsel submits that the period of 90 days for completing the investigation, reckoned from 09.05.2026, expired on 06.08.2026 and it was obligatory for the investigating agency to file the charge-sheet by that date. Counsel submits that, despite this, the learned Magistrate continued to extend the judicial remand of the petitioner. Counsel further submits that the order-sheet dated 11.08.2026 shows that the petitioner was produced through video conferencing and the matter was posted for 25.08.2026 awaiting the charge-sheet, and the remand was extended from 11.08.2026 to 25.08.2026 without any charge-sheet having been filed. Counsel submits that, in these circumstances, the petitioner moved an application for default bail on 18.08.2026, whereon the concerned clerk reported that the matter was placed with the FIR and the remand letter, which shows that no charge-sheet had been submitted by the investigating agency. Counsel submits that the application was thereafter heard on 19.08.2026 and was posted for order on 20.08.2026, and the office report dated 20.08.2026 shows that the charge-sheet was filed only on 20.08.2026. Counsel argues that the learned trial Court was, therefore, wrong in observing that the charge-sheet had been filed before the application for default bail. Counsel contends that the right to default bail accrued to the petitioner on expiry of the statutory period; the said right is indefeasible; the petitioner had availed it by moving the

प्रतिलिपि
सहायक प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

application before the filing of the charge-sheet, and that the subsequent filing of the charge-sheet cannot defeat it. Counsel submits that the petitioner is ready to furnish bail bonds. Counsel further submits that there is no criminal antecedent against the petitioner and he is in custody since 08.05.2026.

3. Learned Public Prosecutor opposes the submissions advanced on behalf of the petitioner and submits that the charge-sheet had already been submitted before the decision on the application for default bail and, therefore, the right of the petitioner to seek default bail stood extinguished.

4. I have considered the contentions advanced at bar and perused the material available on record.

5. Section 187 of BNSS (Corresponding to Section 167 of Cr.P.C.) is reproduced as under:-

> **"187. Procedure when investigation cannot be completed in twenty-four hours.**
>
> (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate.
>
> (2) The Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration whether such person has not been released on bail or his bail has been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days,

सही-प्रतिलिपि
अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXV for the purposes of that Chapter.

(4) No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the audio-video electronic means.

उच्च न्यायालय खण्ड पीठ जयपुर
सत्यापित प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

(5) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation I.-For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in sub-section (3), the accused shall be detained in custody so long as he does not furnish bail.

Explanation II.-If any question arises whether an accused person was produced before the Magistrate as required under sub-section (4), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the audio-video electronic means, as the case may be:

Provided that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution:

Provided further that no person shall be detained otherwise than in police station under police custody or in prison under judicial custody or a place declared as prison by the Central Government or the State Government.

(6) Notwithstanding anything contained in sub-section (1) to sub-section (5), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Magistrate have been conferred, a copy of the entry in the diary hereinafter specified relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in sub-section (3):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

(7) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(8) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

> (9) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.
>
> (10) Where any order stopping further investigation into an offence has been made under sub-section (9), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (9) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify."
>
> (emphasis)

6. A bare perusal of the aforesaid provision makes it clear that the Court is empowered to authorise the detention of an accused in police or judicial custody for a period of up to 90 days during the course of investigation, where the offence for which the accused has been arrested is punishable with death, imprisonment for life or imprisonment for a term of ten years or more. For all other offences, the specified period of detention is 60 days. On completion of the relevant statutory period, if the charge-sheet has not been filed by the concerned investigating authority, the accused person can apply for default bail.

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

7. In the present case, the accused is charged with an offence which attracts a maximum punishment of life imprisonment, thus investigating authority was supposed to submit the charge-sheet within the statutory period of 90 days. The accused was arrested on 8th May, and subsequently, he was committed to judicial custody on 9th May. Thus, the period of 90 days ended on 6th

August, and after the expiry of the above period, i.e., from 7th August, the accused was entitled to get default bail, if the conditions provided by law were satisfied, since the charge-sheet was not filed within the said period.

8. It is a settled position of law that after the expiry of the period of maximum detention provided for under the statute, and the charge-sheet is not filed, the Court should give effect to the right of the accused, which arose under the statute. The continuation of detention beyond the prescribed period cannot be permitted to defeat the valuable right conferred upon the accused by law. The accused must, therefore, be made aware of his entitlement to seek default bail, and his continued detention must be dealt with in accordance with the applicable legal principles. Once the accused duly avails himself of the right to default bail by applying for the same after the expiry of the statutory period and satisfies the requisite conditions, the subsequent filing of the charge-sheet cannot, by itself, defeat or extinguish the right so availed of. The accused may, however, be required to furnish the requisite bail bonds in accordance with law.

9. From the perusal of the facts, it becomes evident that the statutory period of 90 days had been completed on 6th August and that indeed no charge-sheet had been filed within the aforesaid period. Furthermore, it is clear from the order sheet of 11 August 2026 that the accused/petitioner was produced before the Court via video conferencing on 11 August 2026. Yet, it is not mentioned in the order sheet that the accused/petitioner was informed of his statutory right to apply for default bail in view of the expiry of the

सही-प्रतिलिपि
प्रतिलिपिकार अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

statutory period. Another aspect which has come in the notice of this Court is that on 82nd day of custody of the petitioner i.e., 29.07.2026, judicial remand of the petitioner was extended upto 11.08.2026, which extends detention period beyond maximum limit of 90 days. Learned Court failed to appreciate the fact that the investigation had not culminated in filing of final report and while extending the judicial remand, said aspect was not taken into consideration. In other words, the extension of judicial remand beyond the period of 90 days without filing of final report appears to be without any lawful authority. In the considered opinion of this Court, learned Court should extend the judicial remand within a period of statutory limit of 90 days or 60 days, as the case may be and matter must be fixed on the very next day for production of accused who is in custody. On the next day, when accused is produced before the Court, fresh order will be passed with regard to the extension of judicial remand according to the statutory limits as well as taking into consideration the status of the investigation. If the charge-sheet is not filed, then the Court is required to apprise the accused about his right to seek statutory bail.

10. The relevant noting and order-sheets made by the concerned clerk are being reproduced here under:-

> दिनांक— 09.05.2026
> समय 03.00 पी.एम.
> P.S. टोडाभीम से श्री मुरारी लाल मीना ने मुल0 अशोक कुमार को मु.सं. 138/26 U/S 78(2), 64(1), 61(2), 70(1) बीएनएस एवं 66, 67 आईटी एक्ट में गिरफ्तार कर मुझ रिमाण्ड अधिकारी के समक्ष पेश किया तथा 15 योम J/C रिमाण्ड चाहा। सुना गया। सीडी का अवलोकन किया गया। मामले के तथ्यों व परिस्थितियों को देखते हुए मुल0 को दिनांक 22.05.2026 तक J/C भेजा जाना न्यायोचित

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

प्रतीत होता है। इसी आदेश द्वारा मुल0 को हिण्डौन सिटी जेल में दाखिला दिया जावे।
नोटिंग – J/C वारंट प्राप्त किया।

दिनांक : 29.07.2026
अभियोजन अधिकारी उपस्थित। अभियुक्त जे.सी. से जरिये जे.सी. उपस्थित। नतीजा पेश नहीं किया है। इंतजार नतीजा दिनांक 11.08.2026 को पेश हो। तब तक अभियुक्त की जे.सी. दिनांक को बढाया जाता है।

दिनांक : 11.08.2026
अभियोजन अधिकारी उपस्थित। अभियुक्त जे.सी. से जरिये जे.सी. उपस्थित। इंतजार नतीजा दिनांक 25.08.2026 को पेश हो। तब तक जे.सी. अवधि बढ़ाई जाती है।

दिनांक : 18.08.2026
प्रार्थी/अभियुक्त अशोक की ओर से जरिये अधिवक्ता श्री कन्हैयालाल जोगी ने पेश किया। कार्यालय रिपोर्ट होकर दिनांक 19.08.2026 को पेश हो।

नोटिंग – श्रीमान् जी प्रकरण से संबंधित एफ.आई.आर. संख्या–138/2026 व अभियुक्त अशोक का रिमाण्ड पेपर कार्यालय को प्राप्त हुआ। आगामी पेशी दिनांक 25.08.2026 है। रिपोर्ट सादर पेश है।

दिनांक : 19.08.2026
प्रार्थी अधिवक्ता उपस्थित। कार्यालय रिपोर्ट प्राप्त हुई। बहस प्रार्थना पत्र सुनी गयी। प्रार्थना पत्र वास्ते आदेश दिनांक 20.08.2026 को पेश हो।

दिनांक 20.08.2026
प्रार्थी/अभियुक्त अधिवक्ता अनुपस्थित। जमानत आदेश पृथक से लिखाया जाकर खुले न्यायालय में सुनाया गया। आदेशानुसार जमानत प्रार्थना पत्र अस्वीकार कर खारिज किया गया। आदेश की एक प्रति अधिवक्ता अभियुक्त को निःशुल्क दिलाई जावे। कागजात शामिल रिमाण्ड पेपर किये जावे।

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

दिनांक : 20.08.2026
आरोप पत्र कार्यालय रिपोर्ट होकर रिमाण्ड कागजात दिनांक 25.08.2026 को पेश हो।
नोटिंग – श्रीमान् जी, मुताबिक सूची कागजात पूर्ण हैं। रिपोर्ट सादर पेश।

11. A perusal of the record would reveal that there is no mention whatsoever of the date on which the charge-sheet was filed and simply the aforementioned noting was made by the concerned clerk upon the filing of the petitioner's application for default bail on 18.08.2026. Further, neither the charge-sheet was filed within the prescribed limit, nor copy thereof was supplied to the accused petitioner.

12. It is the considered view of this Court that in prolonging the judicial remand pending the outcome of an investigation, especially where the charge-sheet or final report is still not filed, it becomes incumbent upon the Court to take into account the maximum period of detention possible under the statutory provisions. The discretion to allow further detention can be used only within the framework of law and every order of remand made should carry within it the application of mind in respect of the stage of the investigation and the statutory period at the disposal of the investigating agency to complete the process of investigation. The very fact that an investigation is pending cannot alone serve as a ground for allowing further judicial detention beyond the period allowed under the law. Any order of remand passed in disregard of the statutory limits governing detention during investigation raises a serious question as to its legality and the authority under which such continued detention is permitted.

13. Yet another important issue in this case is that while analyzing the impugned order, it cannot be established for certain that the charge-sheet was filed prior to filing of the application for default bail by the accused. However, the order sheets available on

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

record, read in conjunction with the report and noting made by the concerned clerk, clearly indicate that the accused had moved an application for default bail on 18th August. The clerk's noting on the said application further records that the charge-sheet had not been filed up to the time when the application was presented. This contemporaneous record assumes considerable significance, as the accused's entitlement to default bail is required to be examined with reference to the factual and legal position prevailing at the relevant time, particularly the status of the charge-sheet when the application was made.

14. It further appears from the record that the application for default bail was taken up for hearing on 19th August and was thereafter kept for orders on 20th August. On 20th August, the application came to be dismissed on the ground that the charge-sheet had already been filed. But the impugned order remains conspicuous in its silence about the exact date and time of filing the charge sheet. Whether the charge-sheet was filed before the making of the application for default bail on 18th August or whether the same was filed after making of such an application does not find mention in the impugned order. This omission is material and cannot be treated as a mere procedural irregularity, since the determination of the accused's entitlement to default bail may turn upon the sequence of these events. In case the accused was able to claim his right to default bail when the charge-sheet was yet to be filed, the filing of the same subsequently will not alone be enough to deprive him of the right which he had claimed earlier. The Court was, therefore, required to examine the relevant

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

dates and the contemporaneous record before arriving at a conclusion on the application.

15. There is yet another troubling aspect of the matter. Application of default bail involves a precious statutory right that touches upon the liberty of the accused person and thus needs expedient attention. As soon as the application is filed, the Court is required to attend to it at the earliest convenience and ideally dispose it of on the same day without allowing any unnecessary delay because if that happens, the statutory right will become illusory in nature. Any adjournment or deferment of the decision must be viewed with particular care, especially where the prescribed period for completion of the investigation has already expired and the accused asserts that the charge-sheet remains unfilled.

16. In the instant case, despite the filing of the application on 18th August, it was only heard on 19th August, while the disposal of the same was made on 20th August. Despite all this, it should be noted that there is no mention whatsoever about the date of the filing of the charge-sheet or whether it was filed before or after exercising the statutory right by the accused. In the considered opinion of this Court, such a course of action does not conform to the requirement of prompt and meaningful consideration of an application for default bail. The Court dealing with such an application is expected not only to decide the matter expeditiously but also to record clear and categorical findings on the material facts governing the accused's entitlement to relief. Any failure to do so risks frustrating the very object of the statutory safeguard

सही प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

intended to protect personal liberty against indefinite detention during investigation.

17. The right to default bail flows from Article 21 of the Constitution and is an indefeasible right. In ***Rakesh Kumar Paul versus State of Assam,*** reported in ***(2017) 15 SCC 67***, the Hon'ble Supreme Court noted that, if the charge-sheet is not filed and the right to default bail has ripened into the status of indefeasibility, it cannot be frustrated by the prosecution on any pretext, and that the accused can avail it by applying that the statutory period for filing the charge-sheet has expired, the charge-sheet has not yet been filed, and that he is prepared to furnish the bail bond. The Hon'ble Supreme Court further held that, in matters of personal liberty, a Court cannot be too technical, that it is of no consequence whether the application for default bail is written or oral, and that the Court must consider whether the statutory period has expired, whether the charge-sheet has been filed and whether the accused is prepared to and does furnish bail. It was also held that it is the duty and responsibility of a Court, on coming to know that the accused before it is entitled to default bail, to at least apprise him of the indefeasible right.

18. In ***Shaurya Sunil Kumar Singh versus Central Bureau of Investigation,*** reported in ***2026 SCC OnLine SC 1251***, it has been reiterated that the grant of default bail is not a [illegible] merits but is on account of the failure of the investigating agency to file the charge-sheet within the prescribed period, that the right comes to an end on filing of the charge-sheet within the

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

prescribed period, and that an application for default bail may be made orally. In ***M. Ravindran versus Intelligence Officer, Directorate of Revenue Intelligence,*** reported in ***(2021) 2 SCC 485***, the Hon'ble Supreme Court held that the accused is under an obligation to apply promptly for default bail on expiry of the period, that the Court cannot grant default bail without considering whether the accused is ready to furnish bail, and that, once the charge-sheet is filed, the right is not available. In the same judgment, it was noted that, in ***Union of India versus Nirala Yadav,*** reported in ***(2014) 9 SCC 457***, the Magistrate was held to be obligated to deal with the application for default bail on the day it was filed, and the grant of default bail was upheld even though the charge-sheet was filed in the meantime.

19. In the present case, the petitioner was arrested on 08.05.2026 and produced before the Magistrate on 09.05.2026. The period of 90 days, including 09.05.2026, ended on 06.08.2026. The order-sheet dated 11.08.2026 records that the matter was posted for 25.08.2026 awaiting the charge-sheet and the report on the application of the petitioner moved on 18.08.2026 indicates that no charge-sheet had been submitted till then. The application was heard on 19.08.2026 and posted for order on 20.08.2026. As per the office report, prima facie it appears that the charge-sheet was filed on 20.08.2026, that is, after expiry of the statutory period and after the petitioner had moved the application for default bail.

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

20. Having regard to the totality of the facts and circumstances of the case; considering the arguments advanced by learned

counsel for the petitioner, especially considering the fact that the charge-sheet was not filed within the statutory period, which expired on 06.08.2026, and that the petitioner moved the application for default bail on 18.08.2026, before the filing of the charge-sheet, as also considering the law laid down by the Hon'ble Supreme Court in the aforementioned judgments, so also the fact that the petitioner is ready to furnish bail and there is no criminal antecedent against him, but without commenting anything on the merits/demerits of the case, this Court deems it proper to allow the bail application.

21. This bail application is accordingly allowed and it is directed that accused-petitioner- **Ashok Kumar S/o Shri Battu** shall be released on bail provided he furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees One Lakh Only) together with two sureties in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each to the satisfaction of the learned trial Court with the stipulation that he shall appear before that Court and any Court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

22. The observations made hereinabove are only for decision of the instant bail application and would not have any impact on the trial of the case in any manner.

23. Before parting with this order, this Court deems it appropriate to observe that, whenever an application seeking default bail is presented, the concerned official/clerk shall, without fail, record the exact date and time of its filing on the application itself. The concerned official/clerk shall also specifically ascertain

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर

and clearly indicate on the application whether the charge-sheet has been filed or not. Such particulars are essential for the proper appreciation of the application and for ensuring that the question of entitlement to default bail is considered in a timely and effective manner.

24. It is further directed that every such application shall be placed before the Court for consideration on the very same day on which it is filed, so as to avoid any unnecessary delay in its listing and hearing.

25. The Registrar General of Rajasthan High Court is directed to circulate a copy of this order to all District and Sessions Judges for ensuring compliance with the directions issued by this Court in para Nos.23 & 24 of this order.

(ANIL KUMAR UPMAN),J

27/MANOJ SOLANKI

सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय पीठ,
जयपुर