



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

S.B. Criminal Revision Petition No. 1636/2025

Madan Singh S/o Bhopal Singh, Aged About 46 Years, Resident  
Of Prem Nagar Colony, Dangawas, Tehsil Merta, District Naguar

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Poonam Dadhich W/o Lt. Kailash Narayan, Resident Of  
Chipo Ka Pol, Merta City, Naguar
3. Hardik S/o Lt. Kailash Narayan, Minor Through Natural  
Guardian Mother Resident Of Chipo Ka Pol, Merta City,  
Naguar
4. Mohit S/o Lt. Kailash Narayan, Minor Through Natural  
Guardian Mother Resident Of Chipo Ka Pol, Merta City,  
Naguar

-----Respondents

For Petitioner(s) : Ms. Neha Kanwar

For Respondent(s) : Mr. Surendra Bishnoi, AGA

**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**05/01/2026**

1. Heard on the application filed under Section 5 of the  
Limitation Act, 1963.
2. As per the office report, there is a delay of 715 days in filing  
the revision petition.
3. The impugned order was passed in the absence of the  
applicant, and he was not aware of the passing of the said  
order. It is stated that immediately upon gaining knowledge  
of the impugned order, the applicant procured the requisite  
documents and filed the present revision petition without  
any unnecessary delay.
4. The law of limitation is essentially a rule of discipline, which  
mandates that an aggrieved party must challenge an order



within the time prescribed by law. However, this principle operates only in cases where the party had actual or constructive knowledge of the order. Where an order is passed against a person without notice or audience, the limitation would commence only from the date on which such person acquires knowledge of the order. Once it is demonstrated that the petitioners approached the Court with reasonable promptitude upon gaining knowledge of the impugned order, the length of delay pales into insignificance. Justice cannot be allowed to be thwarted on technicalities when sufficient cause is shown.

5. Ms. Neha Kanwar, daughter of the applicant, submits that the delay was neither deliberate nor wilful, but occurred due to a bona fide error. Since the impugned order was passed in the absence of the applicant, it cannot be reasonably expected that he had knowledge of the passing of the said order.
6. Accordingly, the application filed under Section 5 of the Limitation Act, 1963 is allowed. The delay in filing the revision petition is hereby condoned, and the revision petition shall be treated within the period of limitation.
7. Heard on revision petition.
8. Ms. Neha Kanwar, daughter of the petitioner contends that the case under the Negotiable Instruments Act was a summons case, and the accused had initially appeared before the learned trial court on the date fixed for





appearance. Subsequently, the complainant expired and the petitioner under the bona fide belief that the complaint itself had come to an end on account of the death of the complainant, the accused, who earns his livelihood as a labourer at Surat did not further attend the proceedings. During this interregnum, the legal heirs of the deceased complainant preferred an application seeking substitution, pursuant whereof the complaint was revived and proceeded with. The petitioner, however, was not aware of the said development. The bail bonds furnished by the accused came to be forfeited, whereafter warrants were issued against him. The search was made in the local area of the accused, i.e., District Nagaur, and recorded a formal report stating that the accused could not be found. On the basis of such report, which was treated as satisfactory by the court below, the accused was declared absconding. She further submits that the issuance of the process was not within her father's knowledge. Her father has been engaged in labour work in Surat, Gujarat, for a long time, and despite the issuance of a warrant of arrest by the trial Court, it could not be executed by the police, for which her father is not responsible. She further submits that a detailed inquiry regarding his current abode was not conducted. Her father is ready and willing to participate in the Court proceedings, and she assures the Court that he will regularly appear before the trial Court if an opportunity is granted for this purpose.





9. The petitioner has challenged the order dated 21.09.2023, passed by the learned Judicial Magistrate, District Merta, in Criminal Case No. 636/2016, whereby the petitioner was proclaimed as an absconder and a warrant of arrest was issued. This action was taken on the ground that the petitioner failed to appear before the trial Court despite proper service, and all efforts to secure his presence in the proceedings proved unsuccessful. Further, initiation of proceedings under Sections 82 and 83 of the Code of Criminal Procedure has also been directed.
10. Learned counsel for the State opposes the prayer made in the revision petition; however, he does not dispute that the report of Dharma Ram was not prepared in strict compliance with the procedure laid down under the law.
11. I have heard Ms. Neha Kanwar, daughter of the petitioner, and learned counsel for the State.
12. I have gone through the order under challenge dated 21.09.2023. It is revealed that prosecution against the petitioner was launched long back. This was a complaint case in which cognizance was taken by the learned trial Court, and process was issued in the year 2016. There appears to be no legitimate or reasonable cause for the issuance of the warrant of arrest against the petitioner.
13. This Court is convinced, after interacting with the daughter of the petitioner, that the petitioner has been working in Surat for the last ten years. The petitioner had been advised





by his lawyer to take care of his case. During the proceedings, the complainant, Kailash Narayan died, and the petitioner, under the mistaken belief that the proceedings had come to an end, did not appear before the trial Court, which led to the issuance of the warrant of arrest.

14. It is further observed that the petitioner, while working a labour job in Surat, was not aware that the criminal proceedings had been revived on an application moved on behalf of Poonam Dadhich, wife of the late complainant Kailash Narayan, and as such, the proceedings did not abate.
15. This Court is of the considered opinion that the approach adopted by the court below in declaring the petitioner an absconder does not conform to the settled principles of law. The procedure resorted to for declaring the petitioner as absconding cannot be said to be satisfactory or in strict adherence to the mandate of law.
16. In the interest of justice, the petitioner is afforded an opportunity and is directed to appear before the learned court below on the date so fixed, whereupon the matter shall be proceeded with in accordance with law.
17. In the given circumstances and in view of the peculiar facts of the case, it is deemed appropriate to dispose of the revision petition with the following directions:

(a) The petitioner shall appear before the trial Court on or before 05.02.2026 and shall move a regular bail application, upon which the learned trial Court shall





release him on bail on such surety and bond as it deems fit.

(b) Till 05.02.2026, the petitioner shall not be arrested pursuant to the standing warrant of arrest issued against him.

(c) The petitioner shall pay the amount whatever decided by the learned trial Court in the proceedings under Sections 446 and 447 of the Code of Criminal Procedure.

(d) Upon the appearance of the petitioner before the trial Court, the proceedings initiated under Sections 82 and 83 of the Code of Criminal Procedure shall be dropped, and the standing warrant of arrest issued against him shall be recalled.

(e) The petitioner shall regularly attend the proceedings before the trial Court, either personally or through his counsel.

18. Stay petition stands disposed of.

**(FARJAND ALI),J**

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