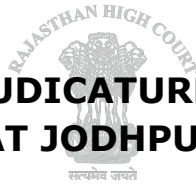




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Miscellaneous (Petition) No. 6973/2026
CNR: RJHC010789092026 | URN: CRLMP / 12210U / 2026

Naresh Prajapat S/o Bansi Lal Kumar, Aged About 48 Years,
Resident Of Lal Bot Choraha, Behind Community Hall, Bedla,
District Udaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Ministry Of Home Affairs, Government Of Rajasthan, Jaipur. (Raj.)
2. Superintendent Of Police, Udaipur.
3. Superintendent Of Police, Sirohi.
4. The Station House Officer, Police Station Nai, District Udaipur.
5. The Station House Officer, Police Station Ambamata, District Udaipur
6. The Station House Officer, Police Station Sukher, District Udaipur
7. The Station House Officer, Police Station Pindwara, District Sirohi.

-----Respondents

For Petitioner(s) : Mr. Deepak Menaria
For Respondent(s) : Mr. Vikram Singh Rajpurohit, PP
Mr. Ravindra Singh Bhati

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

Conclusion of Arguments &

Reserved on : 06/10/2026

Pronounced on : 15/10/2026

1. The present criminal misc. petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been preferred by



the petitioner seeking quashing of the history-sheet opened against him.

2. Learned counsel for the petitioner submitted that the history-sheet of the petitioner was opened vide order dated 01.04.2025 passed by the Superintendent of Police. He contended that, while recommending and approving the opening of the history-sheet, the respondents failed to properly appreciate the nature of the cases registered against the petitioner and their respective outcomes. He pointed out that, out of the ten cases referred to in list with the order, the petitioner had been convicted in only one case, whereas, in the remaining cases, he had either been acquitted, discharged on the basis of compromise, not charge-sheeted, or was facing trial. He argued that the mere registration of criminal cases, without due consideration of their outcome and the nature of the allegations, could not, by itself, furnish sufficient justification for opening a history-sheet against the petitioner.

2.1. He further submitted that the respondents had proceeded in a mechanical and arbitrary manner, without due application of mind to the provisions of the Rajasthan Police Rules, 1965 (hereinafter referred to as 'Rules of 1965'). He contended that the authorities had failed to examine whether the petitioner fulfilled the requisite conditions for being classified as a habitual offender or for the opening of a history-sheet. He argued that such action could not be sustained in the absence of cogent reasons demonstrating the necessity and justification for subjecting the petitioner to police surveillance in accordance with the applicable statutory provisions.





2.3. He also submitted that the respondents had relied upon inconsistent particulars regarding the criminal cases allegedly pending against the petitioner. He pointed out that, at an earlier stage, eight cases were stated to be pending against him, whereas, in a subsequent communication, the number was stated to be ten. He argued that this discrepancy, coupled with the failure to properly consider the status and outcome of the individual cases, demonstrated non-application of mind on the part of the authorities. He maintained that the decision to open the history-sheet had been taken without an objective assessment of the petitioner's conduct and antecedents and was, therefore, arbitrary and unsustainable in law.

2.4. He submitted that the impugned action was contrary to the settled legal position governing the opening of history-sheets and placed reliance upon the judgment dated 04.12.2025 passed by a Coordinate Bench of this Court in the case of **Kaptan Singh v. State of Rajasthan; S.B. Criminal Misc. Petition No. 1134/2025**, in support of his contentions.

2.5. Based on the above submissions, learned counsel prayed that the history-sheet opened against the petitioner may be quashed and the concerned police authorities be directed to delete petitioner's name from the surveillance register maintained by them.

3. Learned Public Prosecutor opposed the submissions made by learned counsel for the petitioner and submitted that the history-sheet was opened vide order dated 01.04.2025 by the Superintendent of Police, Udaipur, after due consideration of the



petitioner's criminal antecedents and the material available on record. He contended that twelve criminal cases had been registered against the petitioner between 1996 and 2025, including cases involving allegations of serious offences, and that the registration of a history-sheet was not dependent solely upon the petitioner's conviction in the cases concerned.

3.1. He further submitted that, under Rules 4.4 and 4.9 of the Rules of 1965, the competent authorities were empowered to initiate surveillance and open a history-sheet upon satisfaction of the prescribed conditions. He argued that conviction was not an indispensable prerequisite for such action and that the petitioner's antecedents, considered cumulatively, provided sufficient justification for the impugned decision. He submitted that the Superintendent of Police had exercised the powers vested in him after examining the relevant material and that the order did not suffer from any illegality or infirmity.

3.2. He also submitted that, out of the twelve cases registered against the petitioner, two were pending trial and the latest case had been registered in the year 2025. He contended that the petitioner's criminal activities had continued over a considerable period and that his antecedents warranted continued surveillance in the interest of maintaining public order and preventing further criminal activity.

3.3. He lastly placed reliance upon the judgment dated 26.09.2016 passed by a Coordinate Bench of this Court in ***Kailash v. State of Rajasthan; S.B. Criminal Misc. Petition No. 1831/2016***, and prayed that the petition be dismissed.



4. Heard learned counsel for the parties and perused the material on record.

5. The details of the twelve criminal cases registered against the petitioner, as reflected in the reply filed by the respondents, are tabulated hereinbelow:-

Sr. No.	FIR No.	Police Station	Offences	Result/Status
1.	199/1996	Nai	Section 283 IPC	Conviction
2.	133/1999	Ambamata	Sections 341, 323 IPC	Compromise
3.	170/2001	Nai	Sections 147, 452, 323, 427 IPC	Acquittal
4.	77/2007	Ambamata	Sections 147, 148, 452, 307 IPC	Acquittal
5.	163/2010	Sukher	Sections 341, 323, 34 IPC	Compromise
6.	362/2016	Sukher	Sections 353, 354, 384, 327, 504 IPC	Acquittal
7.	340/2018	Pindwara	Sections 341, 323, 325, 307, 427, 120B IPC	Under trial
8.	422/2022	Sukher	Section 420 IPC	Negative final report
9.	29/2024	Sukher	Sections 353, 506, 34 IPC	Under trial
10.	47/2024	Sukher	Sections 457, 380 IPC and Section 3 of the PTP Act	Negative final report
11.	34/2025	Sukher	Sections 329(3), 324(4), 3(5) BNS	Negative final report
12.	262/2025	Sukher	Sections 318(2), 308(2) BNS	Negative final report

6. It would first be appropriate to refer to the Rules 4.4 and 4.9 of the Rules of 1965 and examine the legal position governing the opening and continuance of a history-sheet as per the said rules.

The Rules 4.4 and 4.9 of the Rules of 1965 read as under:-

“4.4. Surveillance Register No.8 -

- (1) In every police station, other than those of the railway station, other than those of railway police, a Surveillance Register shall be maintained in form 4.4(1).
- (2) In part I of such register shall be entered the names of persons commonly resident within or commonly frequenting the local jurisdiction of the police station concerned, who belong to one or more of the following classes:-
 - (a) All persons who have been proclaimed under Section 87, Code of Criminal Procedure.



(b) All released convicts in regard to whom an order under Section 565, Criminal Procedure Code, has been made.

(c) All convicts the execution of whose sentence is suspended in the whole, or any part of whose punishment has been remitted conditionally under Section 401, Criminal Procedure Code.

(d) All persons restricted under Rules of Government made under Section 8 of the Rajasthan Habitual offender Act, 1953.

(3) In part II of such register may be entered at the discretion of the Superintendent:-

(a) Persons who have been convicted twice, or more than twice, of offences mentioned in Rule 2.2;

(b) **persons who are reasonably believed to be habitual offender or receivers of stolen property whether they have been convicted or not;**

(c) persons under security under Sections 109 or 110, Code of Criminal procedure;

(d) convicts released before the expiration of their sentences under the prisons Act and Remission Rules without imposition of any conditions

Note:- This rule must be strictly construed, and entries must be confined to the names of persons falling in the four classes named therein.

4.9. History sheet when opened -

(1) A history sheet, if one does not already exist, shall be opened in form 4.9 for every person whose name is entered in the surveillance register, except conditionally released convicts.

(2) **A history sheet may be opened by, or under the written orders of, a police officer not below the rank of Inspector for any person not entered in the surveillance register who is reasonably believed to be habitually addicted to crime or to be aider or a better such persons.**

(3) the Government Railway Police will maintain the history sheets of criminals known or suspected to operate on the railway in accordance with police Rule 4.8. They will open history sheets themselves for criminals living in railway premises who have been absent for their original homes so long that the railway premises may be regarded as their permanent resident. They may also open history sheets for wandering strangers reasonably believed to be





habitually addicted to crime on the railway, whose original homes cannot be traced.”

6.1. In **Kailash** (supra), the Court declined to interfere with the action of the police authorities in the facts and circumstances of that case, recognising that surveillance under the Rules of 1965 is intended to enable the police to keep watch over the activities of persons whose antecedents reasonably warrant such action. The decision, however, does not dispense with the requirement that the power be exercised within the limits prescribed by the Rules of 1965. The existence of police power to maintain surveillance must, therefore, be distinguished from the question whether its exercise in a particular case is justified by relevant material and a reasonable assessment of the person’s antecedents.

6.2. The legal position was further considered by a Coordinate Bench of this Court in **Sanjay v. State of Rajasthan & Ors., S.B. Criminal Misc. Petition No.792/2016** and connected matters (decided on 23.01.2023). After examining Rules 4.4 and 4.9 of the Rules of 1965 and the facts of the matters before it, the Court formulated criteria for assessing the justification for maintaining an entry in the surveillance register or declaring as a history-sheeter. It observed that continuance could be justified where a person had three consecutive convictions and was a habitual offender, subject to the stated exclusion relating to convictions fifteen years old or older. As an alternative, the Court held that where more than ten cases stood registered against a person, irrespective of their outcomes, continuance could be justified at the discretion of the competent authority, however,



where all such cases were ten years old, that criterion would not sustain the entry. These criteria provide material guidance in assessing surveillance, but the reference to the discretion of the competent authority remains significant. The numerical threshold cannot be read in isolation from the applicable Rules of 1965 or as eliminating the need for a lawful exercise of discretion. The decision thus underscores the importance of examining not merely the existence of criminal cases, but also their number, recency and the surrounding circumstances. It does not, however, support the proposition that acquittal, compromise or the absence of conviction invariably bars the opening or continuance of a history-sheet in every case.

6.3. In the case of **Kaptan Singh** (supra), the impugned order had been passed on the basis of the registration of criminal cases and no reasons had been assigned to demonstrate the requisite satisfaction of the competent authority. The Court found the action unsustainable and quashed the order. The Court also observed that the opening of history-sheet must be on the basis of the subjective satisfaction of the competent authority and in compliance with the governing law failing which it would be hit by the Articles 14 and 21 of the Constitution of India, being arbitrary in nature and not permissible in law.

6.4. Recently, in the case of **Gul Mohammad Khan v. State of Rajasthan; S.B. Criminal Writ Petition No.1657/2026** (decided on 05.06.2026), a Co-ordinate Bench of this Court held that the definition of "habitual offender" under the Rajasthan Habitual Offenders Act, 1953, requiring three convictions, cannot



be mechanically imported into Rule 4.4(3)(b) of the Rules of 1965, which also covers persons reasonably believed to be habitual offenders, whether convicted or not. Relying upon the judgment in the case of ***Dhanji Ram Sharma v. Superintendent of Police, North District, Delhi Police; AIR 1996 SC 1766*** and ***Laxmi Narayan Meena v. State of Rajasthan; S.B. Civil Writ Petition No.13591/2014*** (decided on 05.01.2017), the Court clarified that conviction is not an indispensable prerequisite, but the belief must be founded on reasonable grounds and not mere suspicion. Accordingly, ***Kaptan Singh*** (supra) cannot be construed as laying down an absolute bar against opening a history-sheet in the absence of three convictions. The Court further distinguished the legality of reopening a history-sheet from the justification for its continuance and, taking note of subsequent acquittals, discharge and filing of a Final Report, and directed reconsideration under Rules 4.12 and 4.13 of the Rules of 1965. The decision thus underscores that the continuance of surveillance must be assessed in light of subsequent developments, including the outcomes of criminal proceedings and the absence of further criminal involvement.

6.5. The principles emerging from the aforesaid judgments are, therefore, that conviction is not invariably a prerequisite for opening a history-sheet under the Rules of 1965, however, the competent authority must nevertheless possess reasonable grounds for believing that the person falls within the relevant category prescribed by the Rules. The criteria formulated in the case of ***Sanjay*** (supra), and subsequently in ***Gul Mohammad***



Khan (supra), are relevant to the assessment of continuance, but the number of cases cannot be treated as a substitute for lawful and reasoned exercise of discretion. The nature and recency of the cases, their outcomes, any subsequent criminal involvement and the material actually considered by the competent authority must be assessed in their entirety.

7. Upon consideration of the rival submissions and the judgments discussed herein-above, this Court finds that the question of continuance of the history-sheet and surveillance entry requires reconsideration by the competent authority in light of the principles laid down in the aforesaid decisions. Although twelve criminal cases have been referred to by the respondents, however it is also indicated that the petitioner has suffered only one conviction, which dates back approximately thirty years, with no subsequent conviction. Out of the remaining cases, four culminated in negative Final Reports, three in acquittals and two in compromises, while two cases are stated to be pending trial. These circumstances, particularly the absence of any subsequent conviction and the outcomes of the criminal proceedings, warrant a fresh assessment of whether the petitioner's continued surveillance remains justified. The number of cases registered against the petitioner, by itself, cannot be determinative, rather the nature of the allegations, the outcome and present status of the criminal proceedings, the recency of the cases and the material bearing upon the petitioner's alleged habitual criminal activity are all relevant considerations.



7.1. The judgments discussed above make it clear that the exercise of powers under the Rules of 1965 must be assessed in the light of the applicable criteria and the material relevant to the individual concerned. While conviction is not an indispensable prerequisite under Rule 4.4(3)(b) of the Rules of 1965, the requisite belief must be founded on reasonable grounds. Further, the justification for continuance of a history-sheet must be assessed in light of the relevant circumstances, including subsequent developments in the criminal proceedings.

8. In view of the above, this Court deems it appropriate to remit the matter to the Superintendent of Police, Udaipur, for reconsideration in accordance with law and the applicable provisions of the Rules of 1965. While undertaking such consideration, the Superintendent of Police, Udaipur shall examine the petitioner's criminal antecedents, the outcome and present status of the cases registered against him, the relevant material on record and the justification for continuance of the history-sheet and surveillance entry, and shall pass a reasoned order after due application of mind.

9. The petitioner shall be at liberty to submit a representation before the Superintendent of Police, Udaipur alongwith relevant documents within a period of two weeks from today. The Superintendent of Police, Udaipur shall consider such representation and the accompanying documents objectively and pass an appropriate order in accordance with law, preferably within a period of eight weeks from the date of receipt of such representation.



10. Accordingly, the present criminal misc. petition is **disposed of**.

11. It is clarified that this Court has not expressed any opinion on the merits of the allegations underlying the criminal cases or on the entitlement of the petitioner to have the history-sheet closed.

12. Pending application(s), if any, stand(s) disposed of.

(SUNIL BENIWAL),J

RAKESH MATHUR