

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous 2nd Bail Application No. 2407/2026

Jitendra S/o Pukhraj, Aged About 22 Years, Resident Of Village
Bhaniya, Police Station Shivpura, District Pali. (Presently Lodged
At Central Jail Jodhpur)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Prakash Raika.
For Respondent(s) : Mr. Pawan Bhati, PP.

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

26/02/2026

This second application for bail under Section 483 of BNSS (439 Cr.P.C.) has been filed by the petitioner who has been arrested in the present matter. The requisite details of the matter are tabulated herein below:

S. No.	Particulars of the case	
1.	FIR Number	0013/2025
2.	Police Station	Kaparda
3.	District	Jodhpur Rural
4.	Offences alleged in the FIR	Under Sections 8 and 15 of NDPS Act.
5.	Offences added, if any	-

The 1st bail application filed on behalf of petitioner i.e. S.B. Criminal Misc. Bail Application No.13704/2025 was dismissed as not pressed vide order dated 16.12.2025 passed by this Court. Hence, this second application for bail has been filed.

It is contended by learned counsel for the petitioner that the allegations levelled against the petitioner are false and fabricated. He submits that the petitioner is aged about 22 years. The alleged contraband was recovered from an abandoned vehicle, and after the search proceedings, the petitioner was arrested; however, he was not apprehended from the vehicle. Learned counsel has drawn the attention of this Court to the statement of Constable-Sanjay Singh, which is reproduced hereinbelow:-

"जो व्यक्ति गाड़ी से उतरकर भगे थे उन व्यक्तियों को हमने नहीं पहचाना था। डीएसटी टीम किसके संपर्क में थी इसकी मुझे जानकारी नहीं है। मैं नहीं बता सकता हूं कि भगने वाले व्यक्तियों की कद काठी व हुलिया क्या था। यह बात सही है कि हम लोग जब लावारिस गाड़ी में पहुंचे थे तब गाड़ी में कोई मौजूद नहीं था। जिस व्यक्ति को हम पकड़ा था उसको किसी और जगह से पकड़ा था गाड़ी में से नहीं पकड़ा था। यह कहना सही है कि इस गाड़ी में किसी प्रकार के दस्तावेज जिस व्यक्ति को हमने गिरफ्तार किया उससे संबंधित नहीं मिले थे। यह कहना सही है कि दूसरा व्यक्ति हमें बरामदगी के समय दस्तायाब नहीं हुआ था। गाड़ी डिटैन करने के दो घण्टे पश्चात जब्ती की कार्यवाही करना प्रारंभ किया था। इन दो घण्टे में मेरी मौजूदगी में मेरे उच्चाधिकारियों ने किसी भी राजपत्रित अधिकारी व न्यायिक मजिस्ट्रेट व डिप्टी बिलाड़ा व एसपी जोधपुर ग्रामीण को नहीं बुलाया था। मुझे ज्ञात नहीं है कि घटना स्थल से डिप्टी कार्यालय बिलाड़ा कितनी दूरी पर है।"

Learned counsel further submits that despite having been summoned on nearly 10 occasion, the seizure officer has willfully and deliberately failed to appear before the learned trial Court for recording his statement. Bailable warrant in sum of Rs.2,000/- was also issued against him to secure his presence, however, the said seizure officer has continued to abstain from appearing before the trial Court.

It is further submitted that after the incident dated 04.03.2025, the inventory of seized contraband was prepared 27.03.2025, whereas the samples were forwarded to the FSL for examination only on 15.04.2025, resulting in an unaccounted

delay of approximately 42 days. The said delay is in contravention of Clause 1.13 of Standing Order No. 1/1988 dated 15.03.1988, which mandates that the samples drawn are required to be sent for FSL examination within 72 hours from the date of recovery. Additionally, it is contended that as per the averments made in the FIR, the alleged recovery was effected at 4:15 A.M., and in terms of Section 42 of the NDPS Act, prior authorization from the competent authority is mandatory for conducting search and seizure. It is further submitted that out of a total of 22 prosecution witnesses, the statement of only one witness has been recorded till date, thus, the pace of the trial is very slow.

In support of his contention, learned counsel for the petitioner has placed reliance on the judgment rendered in ***Rambabu v. State of Rajasthan (SLP (Crl.) No. 5648/2025 and SLP (Crl.) No. 5732/2025)***, decided on 13.08.2025, wherein relief was granted considering the delay and lack of substantive evidence.

Learned counsel for the petitioner has further placed reliance on the judgments rendered by the Hon'ble Supreme Court in ***Wajid Ali @ Tinku Vs. State of Rajasthan (Special Leave to Appeal No.7049/2025)*** decided on **09.02.2026**.

It is further submitted that the petitioner has no previous antecedents. It is further submitted that the challan has already been filed and the petitioner has been in custody since 04.03.2025, i.e. for about 11 months and 22 days as on today. The trial of the case is likely to take a sufficiently long time to conclude; therefore, looking to the age of petitioner i.e. 22 years

further incarceration of the petitioner is not warranted, and the benefit of bail deserves to be granted.

Per contra, learned Public Prosecutor has vehemently opposed the bail application and submitted that the contraband recovered in this matter is above the commercial quantity. However, he is not in a position to refute the fact that petitioner has no previous antecedents; the seizure officer has not turned down for recording the statement; out of total 22 prosecution witnesses, statement of only 1 witness have been recorded; the FSL samples were sent after an inordinate delay of about 35 days; and the petitioner is in custody since 04.03.2025, i.e. for about 11 months and 22 days as on today.

In response, learned counsel for the petitioner submits that as per the statement of the Constable, the persons who had run away from the vehicle were not identified and the alleged contraband was recovered from an abandoned vehicle, the petitioner was neither apprehended from the vehicle nor identified at the spot.

Having heard and considered the rival submissions, facts and circumstances of the case as well as perused material available on record; considering Clause 1.13 of Standing Order No.1/1988 dated 15.03.1988, which mandates that samples drawn ought to have been sent for FSL examination within 72 hours from recovery; the challan has already been filed; the petitioner has remained in custody since 04.03.2025, i.e. for about 11 months and 22 days as on today; the petitioner has no previous criminal antecedents and the trial of the case will take sufficient long time

to conclude; without expressing any opinion on merits/demerits of the case, this Court is inclined to enlarge the petitioner on bail.

Consequently, the second bail application under Section 483 of BNSS (439 Cr.P.C.) is allowed. It is ordered that the accused-petitioner as named in the cause title, arrested in connection with the above mentioned FIR, shall be released on bail, if not wanted in any other case, provided he furnishes a personal bond of Rs.1,00,000/- and two sureties of Rs.50,000/- each, to the satisfaction of learned trial court, for his appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.

In case, the petitioner remains absent on any date of hearing or makes an attempt to delay the trial by seeking unnecessary adjournments, it shall be taken as a misuse of concession of bail granted to him by this Court. The prosecution, in such a situation, shall be at liberty to move an application seeking cancellation of bail granted to the petitioner today by this Court.

(MUKESH RAJPUROHIT),J