



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

S.B. Criminal Miscellaneous Bail Application No. 2899/2026
Kalu Lal S/o Rama Gurjar, Aged About 34 Years, R/o Hemdai
Police Station Rash Distt Beawer. (At Present Lodged In Dist. Jail
Chittorgarh) -----Petitioner

Versus

State Of Rajasthan, Through Pp -----Respondent

Connected With

S.B. Criminal Miscellaneous Bail Application No. 1154/2026
Tarachand S/o Ramsingh, Aged About 29 Years, R/o Lali Kheda
Police Station Mangaliyawas District Ajmer Presently Logged Dist.
Jail Chittorgarh -----Petitioner

Versus

State Of Rajasthan, Through Pp -----Respondent

For Petitioner(s) : Mr. Ajay Kumar Vyas
Mr. Jai Kishan Haniya
Mr. Ashok Khilery
For Respondent(s) : Mr. Surendra Bishnoi, PP

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT
Order

09/03/2026

Both the aforesaid bail applications arise out of same FIR,
therefore, they are decided by this common order.

These second applications for bail under Section 483 of BNSS
(439 Cr.P.C.) has been filed by the petitioners who have 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	257/2024
2.	Police Station	Nimbahera
3.	District	Chittorgarh
4.	Offences alleged in the FIR	Sections 8 & 15 of NDPS Act
5.	Offences added, if any	-

The 1st bail application filed on behalf of petitioners i.e. S.B.
Criminal Misc. Bail Application Nos.9979/2024 & 9975/2024,
respectively were dismissed as not pressed vide order dated
10.07.2025 passed by this Court, however, liberty was granted to

file afresh after recording of statement of Seizure Officer before learned trial court. It is submitted that now, the statement of Seizure Officer has been recorded. Hence, this second application for bail has been filed.

Learned counsel for the petitioners contend that the allegations levelled against the petitioners are false and fabricated. Learned counsel further submits that co-accused Arjun Ram and Sanwara have already been enlarged on bail by this Court vide order dated 25.02.2026 in S.B. Criminal Misc. Bail Application Nos.12833/2025 & 12832/2025, respectively and there are no previous criminal antecedents against the petitioners. It is further submitted that recovery of alleged contraband was stated to be effected on 25.05.2024, whereas, samples were forwarded to the FSL for examination on 23.07.2024, resulting in an unaccounted delay of approximately two months which is in contravention of Clause 1.13 of Standing Order No.1/1988 dated 15.03.1988 wherein it is mandated that samples drawn ought to have been sent for FSL examination within 72 hours from recovery. It is additionally contended that as per averments in the FIR, alleged recovery was effected in the morning and as per provisions of Section 42 of the NDPS Act, it is mandatory to obtain prior authorization from a competent authority for search and seizure. It is further submitted that out of total 19 prosecution witnesses, statement of only 1 witness has been recorded till date and incarceration of the petitioners on account of slow pace of trial is not warranted.

Learned counsel submit that the Seizure Officer – Devendra (PW-1) himself has admitted in his statement recorded before

learned trial court that the preparation of inventory was initiated after a delay of about two months.

In support of his contention, learned counsel for the petitioners have 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 petitioners have further placed reliance on the judgment rendered by the Hon'ble Supreme Court in the cases of **Rabi Prakash Vs. State of Orisa (Leave to Appeal (Criminal) No.4169/2023** and **Mohd Muslim @ Hussain Vs. State (NCT of Delhi) in Special Leave Petition (Crl.) No(s).915 of 2023**.

Learned counsel have also placed reliance on the judgment of Honb'le Supreme Court in the case of **Balwinder Singh Vs. State of Punjab & Anr. (Special Leave to Appeal (Crl.) No.8523/2024)**, in which, while granting bail, it has been observed as under:

“9. The incident in the present case occurred on 25.06.2020 and the petitioner was arrested soon thereafter on 26.06.2020. By now, 6 co-accused have been granted bail. As the prosecution wishes to examine 17 more witnesses, the trial is unlikely to conclude on a near date. 10. Considering the above and to avoid the situation of the trial process itself being the punishment particularly when there is presumption of innocence under the Indian jurisprudence, we deem it appropriate to grant bail to the petitioner – Balwinder Singh. It is ordered accordingly. Appropriate bail conditions be imposed by the learned trial court.”

Learned counsel for the petitioners has placed reliance on the judgment passed by a coordinate Bench of this Court in **Avtar**

Singh Vs. State Of Rajasthan [S.B. Criminal Miscellaneous Bail Application No. 13483/2024], decided on 22.05.2025, wherein, while allowing the bail application, it was observed as under:

*“7. In **Rabi Prakash Vs. State of Odisha** passed in Special leave to Appeal (Crl.) No.(s) 4169/2023, Hon’ble the Apex Court has again passed an order dated 13th July, 2023 dealing this issue and has held that the provisional liberty(bail) overrides the prescribed impediment in the statute under Section 37 of the NDPS Act as liberty directly hits one of the most precious fundamental rights envisaged in the Constitution, that is, the right to life and personal liberty contained in Article 21.*

8. Considering the overall facts and circumstances of the case and the fact that petitioner is behind the bars for around more than two years thus, looking to the fact that there is high probability that the trial may take long time to conclude and given the flagrant non-compliance with these mandatory provisions, this Court finds that the continued detention of the petitioner is not justified thus it is deemed suitable to grant the benefit of bail to the petitioner.

9. It is nigh well settled law that at a pre-conviction stage; bail is a rule and denial from the same should be an exception. The purpose behind keeping an accused behind the bars during trial would be to secure his presence on the day of conviction so that he may receive the sentence as would be awarded to him. Otherwise, it is the rule of Criminal Jurisprudence that he shall be presumed innocent until the guilt is proved.

It is further submitted that the challan has already been filed and the petitioners have been in custody since 25.05.2024, i.e. for about 1 year, 09 months and 12 days as on today. The trial of the case is likely to take a sufficiently long time to conclude; therefore, further incarceration of the petitioners 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 there are no

previous criminal antecedents against the petitioners and out of total 19 prosecution witnesses, statement of only 1 witness have been recorded; the FSL samples were sent after an inordinate delay of about two months.

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 petitioners have remained in custody since 25.05.2024, i.e. for about 1 year, 09 months and 12 days as on today; 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 petitioners on bail.

Consequently, these second bail applications under Section 483 of BNSS (439 Cr.P.C.) are allowed. It is ordered that the accused-petitioners 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 they furnish a personal bond of Rs.1,00,000/- and two sureties of Rs.50,000/- each, to the satisfaction of learned trial court, for their appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.

(MUKESH RAJPUROHIT),J