

RAJASTHAN HIGH COURT



सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 2902/2026

Uday Lal Alias Uda Gurjar S/o Ratan Lal Gurjar, Aged About 47 Years, Resident Of Pemakheda, Police Station Vijaypur, District Chittorgarh, Rajasthan. (Presently Lodged In District Jail Chittorgarh)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

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For Petitioner(s) : Mr. Pranjul Mehta  
For Respondent(s) : Mr. Pawan Bhati, PP

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**HON'BLE MR. JUSTICE MUKESH RAJPUROHIT**

**Order**

**23/03/2026**

1. The instant second application for bail under Section 483 of BNSS (439 of 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                  | 88/2024                     |
| 2.     | Police Station              | Bijapur                     |
| 3.     | District                    | Chhittorgarh                |
| 4.     | Offences alleged in the FIR | Sec.8/15,29 of the NDPS Act |
| 5.     | Offences added, if any      | Sec. 109 of BNS             |

The 1<sup>st</sup> application filed on behalf of petitioner i.e S.B Criminal Misc. Bail Application No. 14817/2025 was dismissed as not pressed vide order dated 06.12.2025 passed by this court, with the liberty to the petitioner to file fresh bail application after

recording the statement of Seizure Officer. After rejection of first bail application, the statement of Seizure Officer-PW-01 Pannalal has been recorded. Hence, this second application for bail has been filed.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as he was arrested only on the basis of statements of co-accused, and no recovery has been effected from the conscious possession of the present petitioner. It is further submitted that alleged recovery of contraband was stated to be effected on 06.11.2024 whereas same were sent for the FSL on 14.11.2024, after an inordinate and unjustified delay of 7 days. He has also submitted that Clause 1.13 of Standing Order No.1/1988 dated 15.03.1988, mandates that samples drawn ought to have been sent for FSL examination within 72 hours from recovery. Additionally, it is contended that as per the averments made in the FIR, the alleged recovery was effected at 02:05 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 at this hour.

Learned counsel for the petitioner draws attention of this Court towards the statement of Seizure Officer, recorded before the learned trial Court, wherein the said officer has himself admitted that there was non-compliance of necessary procedures under NDPS Act. The relevant relevant portion is reproduced hereinbelow:

“इस प्रकरण में मैं जब्ती अधिकारी हूँ। यह सही है कि 52ए की कार्यवाही के समय प्रकरण के अनुसंधान अधिकारी उपस्थित नहीं थे। 52ए

की कार्यवाही के फोटोग्राफ खिंचने के लिये फोटोग्राफर को बुलाया गया था। यह सही है कि मेरे द्वारा फोटोग्राफर से धारा 63(4)(सी) भारतीय साक्ष्य अधिनियम का प्रमाण पत्र नहीं लिया गया। फोटोग्राफर का नाम आज याद नहीं है। यह सही है कि 52ए के फोटोग्राफ पर न्यायिक मजिस्ट्रेट मेरे व अनुसंधान अधिकारी के हस्ताक्षर व सील नहीं है। यह सही है कि प्रदर्श पी. 33 लगायत 277 तक पहचान के संबंध में मेरा, अनुसंधान अधिकारी व न्यायिक मजिस्ट्रेट साहब का फोटो संलग्न नहीं है। यह सही है कि उक्त कार्यवाही न्यायिक मजिस्ट्रेट साहब व मेरे द्वारा की गई इस बात प्रदर्श पी. 33 लगायत 277 में उनका व मेरा फोटोग्राफ दर्शित नहीं है। 52ए की कार्यवाही थाने पर की गई थी। चिटे न्यायिक मजिस्ट्रेट साहब के निर्देशन में उनके रीडर द्वारा टाइप की गई थी। यह सही है कि चिटो पर न्यायिक मजिस्ट्रेट साहब के रीडर के हस्ताक्षर नहीं है। यह सही है कि नमूना सैंपल आर्टिकल 1 लगायत 55 एफएसएल में गए थे, उनके द्वारा बाद जांच पुनः सील किया गया है। यह सही है कि धारा 52ए की कार्यवाही में कोई स्वतंत्र मौतबीर उपस्थित नहीं थे। यह सही है कि आर्टिकलो की चिटो पर समय का अंकन नहीं है। यह सही है कि सभी आर्टिकलो पर ना तो अनुसंधान अधिकारी की सील है ना ही उनके हस्ताक्षर है। यह सही है कि अदालत में पेश आर्टिकलों के मुंह पर लगी सील को खोलकर कोई अवशेष उसमें भरा जाए तो उनपर लगी चिटे यथावत रहेगी। धारा 52ए के सैंपल न्यायिक मजिस्ट्रेट साहब के निर्देशन में उपस्थित जाब्ता की मदद से निकाले गए थे।

...यह सही है कि स्विफ्ट कार से ऐसे कोई स्वतंत्र प्रत्यक्ष या अप्रत्यक्ष साक्ष्य नहीं मिले जो लालसिंह व उदयलाल से संबंध स्थापित करते हो। हमें देखकर डोडाचुरा वाले वाहन ने करीब 20 फीट पहले वाहन को रोककर चालक व खलासी साईड में बैठा व्यक्ति उतरकर फायरिंग करते हुए जंगल की तरफ भागे थे, बीच में बैठे व्यक्ति को हमने पकड़ लिया था। भागने वाले व्यक्ति को मैं स्वयं नहीं पहचानता था। यह सही है कि पिकअप वाहन से ऐसे कोई दस्तावेजी साक्ष्य बरामद नहीं हुए जो पिकअप से मुलजिम का संबंध स्थापित कर सके या जो बरामदशुदा डोडाचुरा का उदयलाल व लालसिंह से संबंध स्थापित करते हो स्वयं कहा कि लालसिंह को तो हमने मोके पर पकड़ लिया था। पिकअप गाड़ी की तलाशी से पूर्व हमने उनको वैधानिक अधिकार बताए थे। यह सही है कि डोडाचुरा वाले वाहन की तलाशी से पूर्व हमने धारा 42(1) परंतुक के तहत रात्रिकालीन तलाशी वारंट बाबत पर्चा बनाकर उच्चाधिकारियों को नहीं भेजा।”

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 also relied upon the judgment 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 co-accused kana @ Kanhaiya Lal, Bhanwar Lal and Dinesh have already been enlarged on bail by this court vide order dated 12.07.2025 and 12.11.2025 passed in S.B Criminal Misc. Bail Application No. 5971/2025 and S.B Criminal Misc. Bail Application No.12939/2025 and 9238/2025 respectively.

It is also submitted that the petitioner has no criminal antecedents, challan has already been filed and the petitioner is in custody since 13.02.2025, i.e. for about one year and one month as on today; he trial of the case is likely to take a sufficiently long time to conclude as out of total 27 prosecution witnesses, the statement of only one witness; that is of Seizure Officer; has been recorded till date, therefore, 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 applications and submitted that the contraband recovered in this case is in commercial quantity, however, he is not in a position to refute the fact that out of total 27 prosecution witnesses, statement of only one witness have been recorded and the FSL samples were sent after an inordinate delay of about 7 days.

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 13.02.2025, i.e. for about 1 year and one month as on today; and since only one witness has been examined out of 27; 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 of 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 applicant 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 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**