

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

S.B. Criminal Misc(Pet.) No. 2293/2026

Chote Kha Alias Khotu Kha S/o Chand Kha Mewati, Aged About 55 Years, R/o Dhavdimata Road, Lasadia Square, P.s. Dhariyawad, District Pratapgarh (At Present Lodged In Central-Jail, Pratapgarh)

----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor.

----Respondent

For Petitioner(s)	:	Ms. Shruti Rathi for Mr. Anuj Sahlot
For Respondent(s)	:	Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

25/03/2026

By way of filing the present criminal misc. petition under Section 528 of BNSS, the petitioner has prayed for the following relief:-

"a) It is, therefore, respectfully prayed that this misc. petition may kindly be allowed and the judgments of conviction and sentence passed against the present petitioner may kindly be directed to run concurrently.

b) Any other appropriate order which this Hon'ble Court deem just and proper may kindly be passed in favour of the petitioner"

Briefly stated, the facts necessary for disposal of the present criminal misc. petition are that the petitioner was tried, convicted and sentenced by different trial courts for the offences punishable under Section 138 of the N.I. Act, details whereof is being given here under:

Sr. No.	Case No.	Court	Date of Decision	Sentence Fine/Compensation	Appeal
1.	598/2021	ACJM Dhariyawad, Pratapgarh	20.09.2023	03 months Simple Imprisonment and Rs. 60,000 Fine	NIL
2.	787/2021	ACJM Dhariyawad, Pratapgarh	28.11.2023	01 Year Simple Imprisonment and Rs. 7,50,000 Fine	NIL
3.	435/2017	ACJM Dhariyawad, Pratapgarh	10.08.2023	01 Year Simple Imprisonment and Rs. 4,00,000 Fine	Appeal (53/2023) dismissed and order confirmed vide dated 13.09.2023
4.	362/2018	ACJM Dhariyawad, Pratapgarh	07.08.2023	02 Years Simple Imprisonment and Rs. 2,20,000 Fine	Appeal (55/2023) dismissed and order confirmed vide dated 13.09.2023
5.	19/2019	ACJM Dhariyawad, Pratapgarh	07.08.2023	02 Years Simple Imprisonment and Rs. 4,50,000 Fine	Appeal (56/2023) dismissed and order confirmed vide dated 13.09.2023
6.	598/2021	ACJM Dhariyawad, Pratapgarh	20.09.2023	01 Year Simple Imprisonment and Rs. 5,50,000 Fine	Appeal (28/2024) dismissed and order confirmed vide dated 18.01.2025
7.	218/2019	ACJM Dhariyawad, Pratapgarh	20.09.2023	01 Year Simple Imprisonment and Rs. 7,00,000 Fine	Appeal (31/2024) dismissed and order confirmed vide dated 17.01.2025
8.	598/2021	ACJM Dhariyawad, Pratapgarh	20.09.2023	01 Year Simple Imprisonment and Rs. 2,80,000 Fine	Appeal (30/2024) dismissed and order confirmed vide dated 18.01.2025
9.	219/2016	ACJM	20.09.2023	01 Year Simple	Appeal

		Dhariyawad, Pratapgarh		Imprisonment and Rs. 7,00,000 Fine	(24/2024) dismissed and order confirmed vide dated 17.01.2025
10	222/2019	ACJM Dhariyawad, Pratapgarh	14.08.2023	01 Year Simple Imprisonment and Rs. 7,50,000 Fine	Appeal (29/2024) dismissed and order confirmed vide dated 18.01.2025
11	248/2019	ACJM Dhariyawad, Pratapgarh	06.09.2023	01 Year Simple Imprisonment and Rs. 7,00,000 Fine	Appeal (27/2024) dismissed and order confirmed vide dated 18.01.2025
12	478/2022	ACJM Dhariyawad, Pratapgarh	28.11.2023	01 Year Simple Imprisonment and Rs. 10,50,000 Fine	Appeal (25/2024) dismissed and order confirmed vide dated 17.01.2025
13	367/2022	ACJM Dhariyawad, Pratapgarh	28.11.2023	01 Year Simple Imprisonment and Rs. 10,50,000 Fine	Appeal (26/2024) dismissed and order confirmed vide dated 17.01.2025

Learned counsel for the parties fairly conceded that the present case is squarely covered by a decision rendered in the case of ***S.B. Criminal Misc. Petition No.2883/2014 (Rajendra Kabra vs. State of Rajasthan)*** decided on **17.02.2017** wherein, a coordinate Bench of this Court was pleased to hold as under:

“Having considered the facts and circumstances of the present case, offence involved, sentences awarded, period of detention of the petitioner as on date and the law laid down by the Hon’ble Supreme Court in ***State of Punjab vs. MadanLal, V.K.Bansal vs. State of Haryana & Ors., Shyam Palvs. Dayawati Besoya & Anr. and Ammavasai & Anr. vs. Inspector of Police & Ors.*** (supra), I am of the considered view that it would not be inconsistent with the administration of criminal justice if the petitioner is allowed

the benefit of discretion contained in section 427 of the Code to meet the ends of justice. However, as per the law laid down by the Hon'ble Supreme Court in V.K. Bansal vs. State of Haryana & Ors. and Shyam Pal vs. Dayawati Besoya & Anr. (supra), the direction for concurrent running of sentences would be limited only to the substantive sentences alone.

In such circumstances, the present misc. petition is allowed and it is ordered that the substantive sentences awarded to the petitioner in the above referred 32 cases would run concurrently, however, the petitioner will have to serve default sentences as the provisions of section 427 of the CrPC do not permit a direction for concurrent running of substantive sentences with the sentences awarded in default of payment of fine/compensation. The sentences, which the petitioner has been directed to undergo in default of payment of fine/compensation shall not be effected by this direction and if the petitioner has not paid the fine/compensation as directed by the trial courts, the said sentences would run consecutively. Needless to say, if the petitioner pays the fine/compensation now, he is not required to undergo default sentences(sentences awarded by the trial courts in default of payment of fine/compensation)."

Having considered the joint submission made by the parties at bar, this Court is of the opinion that since all the cases against the petitioner pertain to offence under Section 138 of the Negotiable Instruments Act, therefore, the aforesaid precedent law is applicant in the present case.

The present criminal misc. petition is accordingly allowed, in terms of the above mentioned judgment passed in the **Rajendra Kabra** (Supra).

Accordingly, all the substantive sentences awarded to the petitioner-Chotu Kha @ Chotu Kha S/o Chand Kha Mewati (Criminal Cases Nos.598/2021, 787/2021, 435/2017, 362/2018, 19/2019, 598/2021, 218/2019, 598/2021, 219/2019, 222/2019, 248/2019, 478/2022 and 367/2022 respectively, are ordered to run concurrently.

However, the sentences of fine and the sentences in default of payment of fine/compensation imposed upon the petitioner shall not be affected. If the petitioner has not paid the fine/compensation as directed by the learned trial Court, the said sentences would run consecutively. Needless to say, if the petitioner pays the fine/compensation now, he is not required to undergo the default sentences (sentences awarded by the learned trial Court in default of payment of fine/compensation).

All pending applications are accordingly disposed of.

(BALJINDER SINGH SANDHU),J