

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 3404/2026

Kailas Chandra S/o Ranglal, Aged About 51 Years, R/o Sarana P.s
Sarana District Kekri Ajmer (At Present Lodged In Dist. Jail
Bhilwara)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. ML Bishnoi
For Respondent(s) : Mr. Shriram Choudhary, AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

05/05/2026

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 439 Cr.P.C. at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	68/2024
2.	Concerned Police Station	Jahazpur
3.	District	Bhilwara
4.	Offences alleged in the FIR	Under Sections 8/15, 8/25 & 8/29 of the NDPS Act
5.	Offences added, if any	--

2. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against him and his incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the

accused-petitioner and he has been made an accused based on conjectures and surmises.

3. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.
4. I have considered the submissions made by both the parties and have perused the material available on record.
5. It is not disputed that the similarly situated co-accused Lakhan Singh S/o Gopal Jat has already been enlarged on bail by this Court vide order dated 15.04.2026 in S.B. Criminal Miscellaneous 3rd Bail Application No.745/2026. The relevant paragraphs of the said bail application is reproduced herein below:

6. Perusal of the record revealing that the petitioner has been in custody for more than two years. His earlier two bail applications were negatived by this Court having regard to nature and gravity of the offence as also the seriousness of the allegations and the rigours of Section 37 of the NDPS Act. The present application, however, pivots on the assertion that the petitioner's right to a speedy and fair trial, entrenched within Article 21 of the Constitution of India, stands gravely imperiled.

6.1.As regards the prosecution's progress, it is discernible that out of twenty witnesses cited, only ten have been examined. Subsequently, further investigation under Section 173(8) Cr.P.C. culminated in the arrest of Paras and the filing of a supplementary charge-sheet incorporating additional witnesses. Following this development, the trial court ordered consolidation of Paras's case with that of the petitioner, and the record presently awaits the framing of charge against the newly arraigned accused. Necessarily,

the trial shall then recommence de novo, thereby pushing its conclusion into an indeterminate future.

6.2. *This scenario reveals that, despite the petitioner's protracted confinement, the trial has hardly advanced. The petitioner's detention has, therefore, ceased to be merely preventive and has assumed the character of punitive pre-trial incarceration, which is alien to the principles of criminal jurisprudence.*

6.3. *The Hon'ble Supreme Court has, in a catena of decisions, reinforced that the right to a speedy trial forms an inseparable component of Article 21. In **Hussainara Khatoon v. State of Bihar [AIR 1979 SC 1369]**, the Court recognised that undue delay renders custody unconstitutional. In **Kadra Pahadiya v. State of Bihar [1981 Supp SCC 308]**, and more recently in **Satender Kumar Antil v. CBI [(2022) 10 SCC 51]**, it was reiterated that prolonged incarceration without trial is impermissible. In **Supreme Court Legal Aid Committee v. Union of India [(1994) 6 SCC 731]**, the Court clarified that even under the NDPS Act, bail may be granted where detention is inordinately extended. The principle was reaffirmed in **Union of India v. K.A. Najeer [(2021) 3 SCC 713]**, wherein it was held that statutory fetters under Section 37 cannot override constitutional protections under Article 21. Similarly, in **Rabi Prakash v. State of Odisha [SLP (Crl.) No. 4169/2023]**, the Apex Court reiterated that personal liberty is paramount, and prolonged detention without trial cannot be justified under the guise of statutory restrictions.*

6.4. *Jurisprudence also recognises that the prosecution may legitimately claim only a reasonable period to present its case while the accused is in custody. In the context of a sessions trial, such reasonable period is envisaged to be one year, extendable, in rare exigencies, to more than two years. Beyond this outer limit, the continued detention of an undertrial, without substantial progress in the*

proceedings, infringes both the presumption of innocence and the fundamental right to liberty.

6.5. In the present matter, the petitioner's detention has already far exceeded this benchmark. The examination of only ten witnesses in more than two years, coupled with the consolidation of the case with that of a co-accused and the inevitability of a de novo trial, makes the prospect of early conclusion of trial wholly illusory. In such circumstances, the petitioner's continued incarceration would be oppressive, disproportionate, and constitutionally indefensible.

7. 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.

6. In view of the above, the factual position of the allegation levelled against the petitioner is the same rather better than the co-accused Lakhan Singh and on the ground that the trial would still take a long time to conclude, it is deemed suitable to grant the benefit of bail to the petitioner in the present matter.
7. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court

concerned on all the dates of hearing as and when called upon to do so.

(FARJAND ALI),J

49-Samvedana/-