

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

S.B. Criminal Miscellaneous (Petition) No. 2884/2026

Smt. Yashodha Devi W/o Ganpat Prajapat, Aged About 50
Years, 1-M-39, Dhanlaxmi General Store, Gayatri Nagar,
Behind Shishu Bhartiya Schook, Hiranmagri, Sector- 05,
District- (Presently Lodged In Central Jail, Udaipur)

-----Petitioners

Versus

1. State Of Rajasthan, Through Additional Chief Secretary,
Department Of Home, Secretariat, Jaipur, Raj.
2. Director General Of Police (Jail), Jaipur, Rajasthan.
3. Superintendent Of Police, Udaipur, Rajasthan.
4. Jail Superintendent, Central Jail, Udaipur, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Naresh Khatri
For Respondent(s)	:	Ms. Sonu Manawat, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU
Order

29/04/2026

Learned counsel for the petitioners has filed a joint petition; however, he prays for deleting the name of petitioner No.1, and seeks to withdraw the petition qua him, with liberty to file fresh petition. He further prays that the present petition may be treated to be considered only qua the petitioner No.2. Smt. Yashodha Devi. In view of the prayer made, the same is accepted.

Accordingly, the name of petitioner no.1 Ganpat stand deleted from the array of petitioner and the petition qua him stand withdrawn, however liberty is granted to the petitioner to file fresh petition. The present petition shall now be treated as having been filed by petitioner Smt. Yashodha Devi only.

The amended cause title filed by learned counsel for the petitioner is taken on record and let the same be placed appropriately.

By way of filing the present criminal miscellaneous petition under Section 528 of the BNSS, the petitioner has prayed that the substantive sentences awarded to the petitioner in the cases mentioned below be ordered to run concurrently.

Briefly stated, the facts necessary for disposal of the present criminal miscellaneous petition are that the petitioner was tried, convicted and sentenced by different trial Courts for the offence punishable under Section 138 of the Negotiable Instruments Act. The case details of petitioner are mentioned herein- below:-

Sr. No.	Case No.	Court	Date of Decision	Sentence Fine/Compensation
1.	Appeal no. 130/2024 Case no. 20322/2022	Appellate court - Special Judge, SC/ST Court, (Prevention of atrocities) Udaipur Trial court - Special Magistrate NI Act cases no. 02, Udaipur	Appeal decided on 30.11.2024 Trial decided vide judgment dated 04.03.2024	01 Year Simple Imprisonment and Rs. 4,70,000 Fine + one month in default Payment
2.	Appeal No. 274/2024 Case no. 4439/2021	Appellate court – Addl. Session Judge no. 05, Udaipur Trial court - Special Magistrate NI Act cases no. 06, Udaipur	Appeal decided on 15.10.2025 Trial decided vide judgment dated 01.06.2024	Six months of Simple imprisonment and Rs. 3,00,000 Fine + 15 days in default Payment
3.	35379/2023	Special Magistrate NI Act cases no. 04, Udaipur	06.01.2026	01 Year Simple imprisonment and Rs. 2,00,000 Fine + one month Simple imprisonment in default Payment
4.	35372/2023	Special	06.01.2026	01 Year Simple

		Magistrate NI Act cases no. 04, Udaipur		imprisonment and Rs. 2,00,000 Fine + one month simple imprisonment in default Payment
5.	11596/2021	Special Magistrate NI Act cases no. 01, Udaipur	Pending (Judicial custody from 04.09.2025	NA
6.	19664/2022	Special Magistrate NI Act cases no. 01, Udaipur	Pending (Judicial custody from 04.09.2025	NA

Learned counsel for the petitioner submits 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 submissions made by learned counsel for the parties, this Court is of the opinion that since all the cases against the petitioner pertain to the offence under Section 138 of the Negotiable Instruments Act, the aforesaid precedent is applicable to the facts of the present case.

Accordingly, the present criminal miscellaneous petition is allowed in terms of the judgment passed in ***Rajendra Kabra (supra)***.

Consequently, all the substantive sentences awarded to petitioner Yashoda Devi W/o Shri Ganpat Prajapat vide the judgments passed in Criminal Case Nos. 20322/2022, 4439/2021, 35379/2023, 35372/2023, 11596/2021 and 19664/2022, respectively, are ordered to run concurrently.

However, the sentences of fine and the sentences imposed in default of payment of fine/compensation shall not be affected by this order. In case petitioner has not paid the fine/compensation as directed by the learned trial Court, the default sentences shall run consecutively. Needless to observe that if the petitioner deposits the fine/compensation amount now, she shall not be required to undergo the default sentences awarded by the learned trial Court in default of payment of fine/compensation.

All pending application(s), if any, also stand disposed of.

(BALJINDER SINGH SANDHU),J