

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 4453/2026

Chetan Ram S/o Shri Ram Pratap, Aged About 40 Years,
Resident Of Netra Tehsil Baori Police Station Karvar Distict
Jodhpur (At Present Lodged In Central Jail Jodhpur)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Kailash Khilery
For Respondent(s) : Mr. Pawan Bhati, PP

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

28/04/2026

This second application for bail under Section 483 of BNSS (439 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	198/2025
2.	Police Station	Mandore
3.	District	Jodhpur City East
4.	Offences alleged in the FIR	Under Sections 8/18 of NDPS Act
5.	Offences added, if any	Section 25 of NDPS Act

The 1st bail application filed on behalf of the petitioner, i.e. S.B. Criminal Misc. Bail Application No.14550/2025 was dismissed as not pressed vide order dated 18.12.2025 passed by this Court with the liberty to the petitioner to file a fresh bail application after

filing of challan. Now the challan has been filed. Hence, this second bail application has been filed.

Heard learned counsel for the petitioner, as well as learned Public Prosecutor

Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case. Learned counsel argued that the alleged quantity of the contraband, i.e., Opium (3.762 kg), was recovered from 04 polythene bags kept in a bag. It is further submitted that the recovered quantity is the gross weight as the contraband was weighed along with polythene bags.

It was further contended that the alleged recovery of contraband was effected on 07.10.2025, whereas the samples were sent to the FSL only on 24.10.2025, after an inordinate and unexplained delay of 17 days. It is further submitted that Clause 1.13 of Standing Order No. 1/1988 dated 15.03.1988 mandates that the samples drawn are required to be sent for FSL examination within 72 hours from the date of recovery. He also submits that there is no explanation for the delay in sending the samples to the FSL, and there is a serious chance that the samples could have been tampered with, replaced, or contaminated.

It is submitted that the alleged recovery in the present case was effected from a private vehicle at around 8:30 PM, well after sunset, thereby mandatorily attracting the proviso to Section 42(1) of the NDPS Act. The Supreme Court in **Boota Singh &**

Others v. State of Haryana (2021 SCC OnLine SC 324) has authoritatively held that a private vehicle does not come within the expression "public place" as explained in Section 43 of the NDPS Act, and therefore, when recovery is effected from a private vehicle, even one stopped on a public road as a car being a closed, enclosed conveyance belonging to a private individual falls squarely within the definition of a "conveyance" under Section 42 of the Act.

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. It was observed as under:

- "3. The petitioners were arrested on 25.09.2023 and have already undergone incarceration for about one year and ten months.
4. The trial is progressing but is at a nascent stage inasmuch as out of 21 prosecution witnesses, only 1 has been examined till date.
5. The submission of learned counsel for the petitioners is that there is violation of Section 52-A of the NDPS Act inasmuch as the FIR was lodged on 25.09.2023 but the sample was sent for SLP(Crl.) No.5648/2025 forensic examination after 24 days on 19.10.2023 whereas the statute requires that such samples be sent within 72 hours of seizure.
6. The above discrepancy is reflected from Annexure 'P-2', the acknowledgment receipt of the Forensic Laboratory, Rajasthan.
7. In view of the aforesaid facts and circumstances, we are of the opinion that the petitioners are entitled to be enlarged on bail.
8. Accordingly, we direct that the petitioners be released on bail subject to the terms and conditions that may be imposed by the Trial Court commensurating with the charges(if, any) framed against them."

Learned counsel submitted that the challan has already been filed; the petitioner has been in custody since 07.10.2025, i.e. for more than six months months as on today, and the trial of the

case is likely to take a sufficiently long time to conclude; therefore, further incarceration of the petitioner is not warranted, and he deserves to be enlarged on bail.

Per contra, the learned Public Prosecutor has vehemently opposed the bail applications and submitted that the contraband was recovered from the exclusive and conscious possession of the present petitioner; and that there are two criminal antecedents against the petitioner of the same nature, hence he may not be enlarged on bail, however he is not in a position to refute the fact that the samples were sent for FSL examination after a delay of 17 days.

In reply to the aforesaid contention, learned counsel for the petitioner submits that, out of the two criminal cases referred to, the petitioner has been acquitted in one, and in the other, he was enlarged on bail.

Having heard and considered the rival submissions, facts and circumstances of the case as well as perused material available on record; considering that the samples were sent for FSL examination after a delay of 17 days which is in violation of Clause 1.13 of Standing Order No.1/1988 dated 15.03.1988, that mandates, the 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 07.10.2025, and that the trial of the case will take significant 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 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.

In case the petitioner remains absent on any date of hearing or tries to delay the trial by seeking unnecessary adjournments, it shall be taken as a misuse of the concession of bail granted to him by this Court. The prosecution, in such a situation, shall be at liberty to move an application seeking cancellation of bail granted to the petitioner today by this Court.

(MUKESH RAJPUROHIT),J