

RAJASTHAN HIGH COURT



सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 5785/2026

Seema Kumari D/o Shri Hanumanram, Aged About 27 Years,  
Resident Of Vada Bhadvi Bagora Tehsil Sanchore District Jalore  
(Lodged In Central Jail, Jodhpur)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

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For Petitioner(s) : Mr. Ashok Upadhyay  
For Respondent(s) : Mr. Pawan Bhati, PP

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

**Order**

**05/05/2026**

This fourth 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 below:

| S. No. | Particulars of the case     |                                         |
|--------|-----------------------------|-----------------------------------------|
| 1.     | FIR Number                  | 478/2023                                |
| 2.     | Police Station              | Chopasni Housing Board                  |
| 3.     | District                    | Jodhpur City west                       |
| 4.     | Offences alleged in the FIR | Under Sections 8/21 and 29 of NDPS Act. |
| 5.     | Offences added, if any      | -                                       |

The 3<sup>rd</sup> bail application filed on behalf of petitioner, i.e. S.B.  
Criminal Misc. Bail Application No. 13017/2025 was dismissed as  
not pressed vide order dated 04.12.2025, passed by this Court.

After rejection of the third bail application, this fourth bail application has been filed.

It is contended by learned counsel for the petitioner that the allegations levelled against the petitioner are false and fabricated.

It is submitted that the seizure officer, being a material witness to the alleged recovery, failed to appear before the learned Trial Court on several occasions despite being duly summoned, and his presence could only be secured upon issuance of a bailable warrant. Such conduct has materially contributed to the delay in the trial, resulting in the petitioner remaining in custody for a prolonged period without any meaningful progress in the proceedings.

It is also submitted that all the PW07 - Prem Chaudhary, and PW08 - Suresh, in their statements, have affirmed that the alleged tip-off contained no reference to any woman, nor did it disclose her age or any description of her appearance.

It is further contended that the alleged recovery of contraband was effected on 17.11.2023, whereas the samples were sent to the FSL only on 21.11.2023, after an unexplained delay of 24 hours. 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.

It is contended that out of 24 witnesses, only 8 have been examined so far; the applicant has been in judicial custody since 17.11.2023 and has undergone incarceration of approximately 30

months without any guilt being established against her by a Court of law and the trial is nowhere near its conclusion, which itself is a grave violation of the applicant's fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. It is further submitted that the petitioner is a young lady having her entire future ahead of her and her continued incarceration would seriously prejudice her personal and professional prospects; challan has been filed; there are no criminal antecedents against the petitioner; and she has been in custody since 17.11.2023. Therefore, looking at the prolonged incarceration, the petitioner may be enlarged on bail.

In support of his contention, learned counsel for the petitioner has also placed reliance on the judgment rendered by the Hon'ble Supreme Court in the cases of ***Rabi Prakash Vs. State of Orisa (Leave to Appeal (Criminal) No.4169/2023 and Mohd Muslim @ Hussain Vs. State (NCT of Delhi) in Special Leave Petition (Crl.) No(s).915 of 2023.***

Per contra, the learned Public Prosecutor has vehemently opposed the instant bail application and submitted that looking to the allegation levelled against petitioner, and the fact that the recovery of contraband has been made from the house which was rented to the petitioner, she may not be enlarged on bail. However, he is not in a position to refute the fact that only 8 witnesses out of 24 cited prosecution witnesses have been examined to date, and she has been in custody for almost than 2 years and 6 months.

Having heard and considered the rival submissions, facts, and the circumstances of the case, as well as perused the material available on record, at the stage of considering a bail plea pending trial, this Court is not expected to record any definite opinion or make firm observations regarding discrepancies or legal defects in the prosecution's case, as doing so may seriously prejudice the prosecution's case. At the same time, the Court cannot ignore non-compliance with mandatory provisions, including **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 and the fact that the accused has remained incarcerated since 17.11.2023, i.e. 2 years, 6 months as on today.

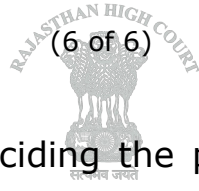
The Hon'ble Apex Court in the case of ***Mohd Muslim @ Hussain Vs. State (supra)***, observed that, while deciding a bail application under Section 439 Cr.P.C., the Court may not be able to form a definite opinion that the accused is not guilty of the alleged offence; however, for the limited purpose of just disposal of the bail application, it may form a tentative view that the material on record is insufficient to attract the embargo under Section 37 of the NDPS Act.

Accordingly, this Court has examined the facts of the case and finds that, in the given circumstances, the personal liberty of an individual cannot be curtailed by keeping him in custody for an indefinite period pending trial, particularly when the trial has not shown any meaningful progress.

Thus, in the peculiar facts and circumstances of the case, in the absence of sufficient incriminating material available on record, this Court is of the view that the embargo under Section 37 of the NDPS Act would not stand in the way of granting bail. Furthermore, considering that there are no criminal antecedent against petitioner; the challan has already been filed; only eight witnesses have been examined out of 24 and that the trial of the case will take sufficient long time to conclude; without expressing any opinion on the 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 her 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 attempts to delay the trial by seeking unnecessary adjournments, it shall be taken as a misuse of the concession of bail granted to her 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. It is also made clear that the observations made hereinabove are



only for the purpose of deciding the present bail application and shall not affect the merits of the case during trial.

**(MUKESH RAJPUROHIT),J**

261-mSingh/-