

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

S.B. Criminal Miscellaneous **2nd** Bail Application No. 8526/2025
CNR: RJHC010636552025
URN: CRLMB / 17699U / 2025

Bhagirath Budiya S/o Shri Chhoga Ram Budiya, Aged About 50 Years, R/o Village Mangal Nagar, Huda Vishnoiyan, Ps Kuri Bhagtasni, Tehsil Luni, District Jodhpur (Lodged In Central Jail, Jodhpur)

-----Petitioner

Versus

Union Of India, Through Ncb

-----Respondent

Connected With

S.B. Criminal Miscellaneous **2nd** Bail Application No. 8527/2025
CNR: RJHC010636522025
URN: CRLMB / 17700U / 2025

Baldev Singh S/o Shri Ashok Gehlot, Aged About 33 Years, R/o Hanumanpura Was, Village Choukha P.s. Rajeev Gandhi Nagar, Jodhpur (Lodged In Central Jail, Jodhpur)

-----Petitioner

Versus

Union Of India, Through Ncb

-----Respondent

For Petitioner(s)	:	Mr. Anand Purohit, Sr. Adv. With Mr. Kailash Khilery
For Respondent(s)	:	Mr. M.R. Pareek, Spl. PP for NCB Mr. Mayank Roy

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

22/07/2026

These second applications for bail under Section 483 BNSS have been filed by the petitioners who have been arrested in connection with F.I.R. No.VIII(IO)08/NCB/JZU/2024 registered at

Police Station NCB Unit, Jodhpur for the offences under Sections 8/20 and 29 of NDPS Act

Heard learned counsel for the petitioners and learned Public Prosecutor. Perused the material available on record.

Learned counsel for the petitioners submitted that, as per the prosecution, on 23.05.2024, the officials of the Narcotics Control Bureau (NCB) received a secret information that Anil S/o Jala Ram, Dinesh @ Tony and Bunty @ Baldev Singh would be transporting a huge quantity of ganja from Mogara Kallan to Dudiyo Ki Dhani in a Mahindra Bolero Pickup bearing registration No. RJ24-GA-6108. As per the information received, the contraband was to be delivered to one Rakesh S/o Kishna Ram.

Acting upon the aforesaid secret information, a team of NCB officials laid a trap and kept close surveillance over the location. At about 09:15 AM, the NCB officials noticed the Mahindra Bolero Pickup bearing registration No. RJ24-GA-6108 approaching from the side of Mogara Kallan. The officials signalled the driver of the vehicle to stop; however, three persons travelling in the vehicle attempted to flee from the spot. The NCB officials succeeded in apprehending Anil S/o Jala Ram at the spot, while the other two persons managed to escape. During interrogation, Anil disclosed the names of the persons who had fled as Tony @ Dinesh and Bunty @ Baldev Singh. Thereafter, after complying with the mandatory provisions of the NDPS Act, the NCB officials searched the vehicle and recovered 71 packets of ganja concealed therein. Anil further disclosed that 99 packets of ganja had been concealed in the house of Bhagirath S/o Chhoga Ram.

Learned counsel submitted that, pursuant to the information furnished by co-accused Anil, the NCB officials conducted a search of the house of Bhagirath and recovered 99 packets of ganja from one of the rooms. According to the prosecution, the contraband so recovered belonged to petitioner Baldev Singh Gehlot @ Bunty, who had allegedly procured the same from Odisha for its onward supply in the State of Rajasthan.

Learned counsel submitted that the petitioners have been falsely implicated in the present case. Drawing the attention of the Court towards the statements of the NCB officials recorded before the competent criminal Court and the other material available on record, learned counsel contended that there has been gross non-compliance with the mandatory provisions of the NDPS Act. It was submitted that the samples were drawn at a place different from the place of recovery; the prosecution case against the petitioners is founded primarily on the disclosure statements of the co-accused persons; and the samples drawn from different packets were mixed together before being sent to the Forensic Science Laboratory. Learned counsel further contended that the prosecution case is based merely on conjectures and surmises without any direct or corroborative evidence connecting the petitioners with the alleged offence. On these grounds, it was prayed that the petitioners be enlarged on bail.

Per contra, learned Special Public Prosecutor vehemently opposed the bail applications.

Heard.

Having heard the learned counsel for the parties and upon perusal of the material available on record, this Court finds that,

acting upon the secret information regarding transportation of a huge quantity of ganja, the NCB officials intercepted the Mahindra Bolero Pickup bearing registration No. RJ24-GA-6108 and apprehended co-accused Anil. During the search, the NCB recovered 71 packets of ganja from the offending vehicle and, thereafter, pursuant to the disclosure made by co-accused Anil, recovered another 99 packets of ganja from the house of petitioner Bhagirath. Thus, in all, 170 packets containing 865.600 kilograms of ganja were recovered in the present case.

The statements of the co-accused persons, the mobile phones recovered during investigation, call detail records and the other material collected by the Investigating Agency prima facie indicate that all the accused persons were involved in the inter-State transportation of commercial quantity of contraband while concealing the same in vehicles. The material available on record further prima facie indicates that petitioner Baldev Singh was instrumental in procuring the contraband from Odisha and facilitating its transportation into the State of Rajasthan.

Insofar as the contention regarding change of place for seizure and sampling, as well as mixing of samples, is concerned, suffice it to observe that the Hon'ble Supreme Court in the case of **"Khet Singh vs. Union of India"** reported in (2002) 4 SCC 380, has held that the mere fact that sampling was carried out at a place different from the place of recovery would not, by itself, vitiate either the recovery or the prosecution case. Similarly, the mixing of samples, in a given case, would not ipso facto render the recovery illegal and, at the highest, may have relevance while determining

whether the quantity of the recovered contraband falls below or above the commercial quantity.

Considering that 865.600 kilograms of ganja has been recovered in the present case, which is far in excess of the prescribed commercial quantity, the rigours of Section 37 of the NDPS Act are clearly attracted. It is also pertinent to note that some of the co-accused persons are already facing trial in other cases involving similar offences. In the considered opinion of this Court, the petitioners have failed to satisfy the twin conditions stipulated under Section 37 of the NDPS Act for grant of bail.

Consequently, this Court does not find it to be a fit case for grant of bail to the petitioners. Accordingly, the present second bail applications filed on behalf of the petitioners are dismissed.

(KULDEEP MATHUR),J