

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

S.B. Criminal Miscellaneous **2nd** Bail Application No. 9545/2025

Praveen S/o Prathviraj Bawari, Aged About 27 Years, R/o Mundali, P.s Malahargarh, District Mandsour (M.p) (Presently Lodged In District Jail, Chhitorgarh)

-----Petitioner

Versus

Union of India, Through Pp

-----Respondent

Connected With

S.B. Criminal Miscellaneous **2nd** Bail Application No. 13419/2025

Karan Mogya S/o Gheesalal Mogya, Aged About 25 Years, Khokhra Tehsil Malhargarh Dist. Mandsore M.p. (Presently Lodged In Dist. Jail Chhittorgarh)

-----Petitioner

Versus

Union Of India, Through C. B. N.

-----Respondent

For Petitioner(s)	:	Mr. Mangilal Bishnoi Mr. Ramsukh Mali
For Respondent(s)	:	Mr. K.S. Nahar, PP, CBN Mr. Gopal Singh Shekhawat

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

11/02/2026

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.01/2024 registered at Police Station CBN, Neemuch, for the offences punishable under Sections 8/15, 8/25 and 8/29 of NDPS Act.

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

Drawing the attention of the Court to the charge-sheet papers and the statement of the seizure officer (PW-01) recorded before the competent criminal court, learned counsel for the petitioners submitted that, according to the prosecution, contraband in a quantity greater than the commercial quantity was recovered from a pickup vehicle bearing registration No. MP-14-GC-2079. The petitioner Karan was allegedly apprehended at the spot and, upon interrogation, disclosed the name of his co-passenger, who fled from the scene and was identified as petitioner Praveen.

However, learned counsel submitted that the statement of PW-01 and the material available on record clearly indicate that the entire search and seizure proceedings in the present case were conducted at the CBN Office, Neemuch (M.P.), which is approximately 150 kilometers away from the place where petitioner Karan was allegedly apprehended along with the offending vehicle. It was contended that neither were the samples drawn nor was the search conducted at the spot; rather, all seizure memos and other documents pertaining to the investigation were prepared at the CBN Office, Neemuch. Learned counsel argued that the non-collection of samples at the time and place of seizure, as mandated under the provisions of the NDPS Act, constitutes an incurable defect, thereby casting serious doubt on the entire seizure proceedings.

Lastly, learned counsel submitted that the petitioners are in judicial custody and that the trial is likely to take a considerable period of time to conclude; therefore, the benefit of bail may be granted to the accused-petitioners.

Per contra, learned Public Prosecutor vehemently opposed the bail applications. However, he was not in a position to dispute the

fact that the entire search and seizure proceedings were conducted at the CBN Office, Neemuch, which is about 150 kilometers away from the place where the accused persons were apprehended on suspicion of transporting a narcotic substance.

Having considered the rival submissions, facts and circumstances of the case, this Court *prima facie* finds sufficient merit in the arguments advance by the learned counsel for the petitioner that since the seizure memo was not prepared and samples were not taken at the spot/ place of occurrence, seizure proceedings become doubtful, thereby affecting the credibility of the prosecution case. This Court also *prima facie* finds that the prosecution has not shown any apprehension of petitioners involving themselves in a case of similar nature or fleeing away from justice or tampering with the evidence, in case they are enlarged on bail by this court.

In the *prima facie* opinion of this court, the twin conditins enumerated under Section 37 of the NDPS Act are duly satisfied in the present case. Thus, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the bail applications filed by the petitioners deserve to be accepted.

Consequently, these second bail applications under Section 483 BNSS are allowed. It is ordered that the accused-petitioners **(1) Praveen S/o Prathviraj Bawari and (2) Karan Mogya S/o Gheesalal Mogya** arrested in connection with F.I.R. No.01/2024 registered at Police Station CBN, Neemuch, shall be released on bail, if not wanted in any other case, provided each of them 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.

It is however, made clear that findings recorded/observations made above are for limited purposes of adjudication of bail application. The trial court shall not get prejudiced by the same.

A copy of this order be placed in each file.

(KULDEEP MATHUR),J

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