

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous II Bail Application No. 11980/2025

Madanlal Jat S/o Mithu Jat, Aged About 49 Years, Ranchhorpura,
Ps Kapasan, District Chittogarh (Raj) (Presently Lodged In Distt.
Jail Chittorgarh)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Yogendra Singh Charan
For Respondent(s)	:	Mr. N.S. Chandawat, DyGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

08/05/2026

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 483 of the BNS at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	319/2024
2.	Concerned Police Station	Kapasan
3.	District	Chittogarh
4.	Offences alleged in the FIR	Under Sections 8/15 of the NDPS Act
5.	Offences added, if any	-

2. Learned counsel for the petitioner submits that the petitioner is in custody since 10.11.2024 and the alleged recovery was not effected from his personal or exclusive conscious possession. It is submitted that the entire prosecution case merely rests upon the allegation that the land of the

petitioner was adjacent to the place from where the contraband came to be recovered. Counsel submits that during cross-examination, the Investigating Officer himself admitted that the place of recovery was government land and no material was collected during investigation to establish exclusive possession, cultivation, control or dominion of the petitioner over the said land. It is thus contended that there is not an iota of evidence suggestive of conscious possession of the petitioner over the place of recovery and therefore the rigours of Section 37 of the NDPS Act would not operate against the petitioner.

3. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.
4. Heard learned counsel for the parties and perused the material available on record.
5. Having considered the submissions advanced at the Bar and upon perusal of the material available on record, particularly the statement of PW-2 Ratan Singh, Investigating Officer, recorded during trial, this Court finds that admittedly the alleged contraband was not recovered from the personal possession of the petitioner nor from any enclosed premises shown to be under his exclusive possession. Prima facie, the prosecution material itself indicates that the alleged recovery was effected from an open agricultural land. A perusal of the statement of the Investigating Officer further reveals that the

place of recovery was reflected in the revenue record as government land bearing Khasra No.427 and no documentary material was collected during investigation to establish exclusive ownership, cultivation or possession of the said land by the petitioner. The Investigating Officer has also admitted that no evidence was collected to show that the maize crop standing over the land was cultivated by the petitioner and no independent village witness, agriculturist or Sarpanch was examined to establish exclusive control or dominion of the petitioner over the place of recovery.

How liability can be fastened upon a man solely on the ground that his land was adjacent to the place wherefrom recovery took place, particularly when there is not an iota of evidence or any material suggestive of either possession or dominion of the petitioner over the open land from which the contraband came to be recovered, remains a matter requiring deeper examination during trial.

Since neither the contraband came to be recovered from the exclusive and conscious possession of the petitioner nor any material has been brought during the course of trial to show the control and dominion of the petitioner over the land from where the contraband got seized, thus, in such circumstances, this Court is of the opinion that the embargo contained under Section 37 of the NDPS Act would not come in the way of grant of bail to the petitioner.

There is high probability that the trial may take long time to conclude. In light of these facts and circumstances, it

is deemed suitable to grant the benefit of bail to the petitioner in the present matter.

6. Accordingly, the instant bail application under Section 483 of the BNS is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so.

(FARJAND ALI),J