

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

S.B. Criminal Miscellaneous Bail Application No. 14445/2025

Ashok S/o Bhagirath Ram, Aged About 31 Years, R/o Khara,
Police Station Phalodi, District Phalodi, Rajasthan.
(Presently lodged in District Jail, Bikaner

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Bhagirath Ray Bishnoi
For Respondent(s)	:	Mr. Urja Ram Kalbi, PP Mr. Om Prakash, CI, SHO P.S. Gajner, Bikaner

HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA

Order

07/05/2026

The present bail application has been preferred by the petitioner under Section 483 of BNSS (Old Section 439 Cr.P.C.) in connection with FIR No.08/2025 registered at Police Station Hadan, District Bikaner for the offences punishable under Section 8/18 of the NDPS Act.

2. Heard learned counsel for the petitioner and learned Public Prosecutor. Perused the material available on record.
3. Mr. Om Prakash, CI & SHO, Police Station Gajner, district Bikaner is present in the Court.
4. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case. It is further contended that the recovery memo is shown to have been prepared on 31.01.2025 at 02:15 PM, whereas the memo whereby

Constable Ranaram was directed to call independent motbir witnesses was prepared subsequently on the same day at 02:25 PM. Learned counsel further submitted that, as per the recovery memo itself, notices under Section 50 of the NDPS Act were served upon the petitioner at about 02:50 PM. It is thus argued that a bare perusal of the recovery memo and other documents available on record clearly indicates that the recovery memo had been prepared prior to the preparation of the remaining proceedings/documents, which creates a serious doubt regarding the genuineness and sanctity of the entire search and seizure proceedings.

5. Learned counsel for the petitioner further submitted that neither any documentary evidence nor any oral evidence exists to establish the nexus of the petitioner with the contraband allegedly recovered in the present case. It is further contended that material contradictions are apparent in the statements of the prosecution witnesses. Learned counsel also submitted that the petitioner has been in judicial custody since 31.01.2025. Lastly, it is argued that the charge sheet has already been filed, no recovery is to be effected from the present petitioner and the conclusion of the trial will take sufficiently long time. He, therefore, prays that the petitioner may be enlarged on bail.

6. Per contra, learned Public Prosecutor has vehemently opposed the bail application and submits that the present case is not fit for enlargement of accused on bail.

7. Having considered the rival submissions advanced by learned counsel for the parties, the facts and circumstances of the case and upon perusal of the material available on record, this Court

prima facie finds that the mandatory provisions of the NDPS Act have not been duly complied with, thereby rendering the alleged recovery doubtful. This Court finds that the sequence of events, as emerging from the record, appears prima facie incongruous. The recovery memo is shown to have been prepared at 02:15 PM, whereas, as per the prosecution's own version, the officer concerned reached Nokhada at about 02:10 PM in search of the suspect. Thereafter, at 02:25 PM, a written direction was issued to call independent motbir witnesses, and notices under Section 50 of the NDPS Act are stated to have been served subsequently. Significantly, the recovery memo prepared at 02:15 PM already records recovery of contraband (liquid opium weighing 4 kg 800 grams), even prior to the procedural steps allegedly undertaken thereafter. Such apparent inconsistency in the chronology of events creates a serious doubt, at least at this stage, regarding the manner of recovery. Without expressing any opinion on the merits of the case, this Court is of the view that the petitioner has made out a case for grant of bail.

8. Consequently, the bail application under Section 483 of BNSS (Old Section 439 Cr.P.C.) is allowed. It is ordered that the accused-petitioner **Ashok S/o Bhagirath Ram**, arrested in connection with FIR No. 08/2025 registered at Police Station Hadan, District Bikaner shall be released on bail provided he 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 his appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.

9. However, nothing stated herein shall be construed as an expression on the merits of the case and the trial Court shall decide the matter independently and uninfluenced by any of the observations made herein.

(CHANDRA SHEKHAR SHARMA),J

56-Anil/-