

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

1. S.B. Criminal Miscellaneous Bail Application No. 14064/2025
CNR: RJHC011073972025
URN: CRLMB / 29267U / 2025

Manohar Singh S/o Shri Babu Singh, Aged About 20 Years, R/o
Parlia, Police Station-Badi Sadri, District Chittorgarh, Rajasthan.
(Presently Lodged In District Jail Pratapgarh)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

Connected With

2. S.B. Criminal Miscellaneous Bail Application No. 15315/2025
CNR: RJHC011145762025
URN: CRLMB / 31830U / 2025

Lalit S/o Shri Sukhlal, Aged About 30 Years, Resident Of Parliya,
Police Station Tehsil Badi Sadri, District Chittorgarh, Rajasthan.
(Presently Lodged In District Jail, Pratapgarh)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

3. S.B. Criminal Miscellaneous Bail Application No. 333/2026
CNR: RJHC010005752026
URN: CRLMB / 866U / 2026

Bhagat Ram S/o Babu Lal, Aged About 33 Years, Barwada Gurjar,
Police Station Chhoti Sadari, District Pratapgarh, Rajasthan
(Lodged In Dist. Jail, Pratapgarh)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Shive Kumar Bhati Mr. Birbal Mr. Ramesh Chandra Purohit
For Respondent(s)	:	Mr. Hathi Singh Jodha, PP

HON'BLE MR. JUSTICE SANDEEP SHAH**Order****21/07/2026****S.B. Criminal Miscellaneous Bail Application No.****14064/2025:-**



1. After arguing the matter at some length, learned counsel for the applicant submits that he does not wish to press the present criminal miscellaneous bail application at this stage and seeks liberty to file a fresh bail application after recording of the statement of Investigating Officer and also seeks a direction to expedite the trial.

2. Considering the submissions so made, the present bail application is dismissed as not pressed. However, liberty is granted to the applicant to file the fresh bail application after recording of the statement of Investigating Officer and the learned Trial Court is directed to expedite the trial and conclude the same as soon as possible and further get the statement of Seizure Officer recorded on priority basis.

S.B. Criminal Miscellaneous Bail Application No.

15315/2025:-

1. The applicant has filed the present bail application under Section 483 of BNSS being aggrieved against the order dated 01.12.2025 passed by the learned Special Judge, NDPS Cases, Pratapgarh, in Criminal Misc. Case No.450/2025, whereby the bail application filed by the accused-applicant under Section 483 B.N.S.S. was rejected. The accused-applicant is behind the bars, pursuant to the F.I.R. No.106/2025 registered at Police Station Chhotisadri, District Pratapgarh against the accused-applicant for the offence punishable under Sections 8/15 of NDPS Act 1985.

2. The brief facts of the case are that on 26.04.2025, at around 05:25 PM, during a regular nakabandi/blockade, a Swift car bearing Registration No. RJ-27-CL-0419 was found coming at a high speed. The said car was asked to stop, however, the driver did not stop the vehicle and, while dashing through the blockade,



tried to run away. Due to the high speed, the car lost control and turned turtle. Subsequently, the driver and the co-occupant of the car were apprehended and upon being asked, they disclosed their names to be Bhagat Ram and Lalit. The accused-applicant (Lalit) was driving the car in question. Upon search being conducted, 89.200 kg of poppy straw was recovered from the car.

3. Learned counsel for the applicant makes two submissions, the first being there is non-compliance of Section 52-A of the Act of 1985 and the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, inasmuch as the seizure was effected on 26.04.2025, whereas the inventory was certified on 04.06.2025 and the samples were sent to the FSL on 02.07.2025. He submits that in view of such non-compliance of Section 52-A of the Act of 1985 and the Rules of 2022, the recovery itself becomes doubtful and the accused-applicant deserves to be enlarged on bail on this ground. The second limb of his argument is that the accused-applicant has remained behind bars for about one and a half years and the trial has not commenced, inasmuch as although the charges have been framed, not even a single witness has been examined. He, therefore, prays for grant of bail to the accused-applicant on the ground of prolonged incarceration.

4. *Per contra*, learned Public Prosecutor opposes the bail application and submits that, in view of the judgment passed by Hon'ble Apex Court, in the case of ***Bharat Aambale v. State of Chhattisgarh, (2025) 8 SCC 452***, the compliance of Section 52-A of the Act of 1985 and the Rules of 2022 has been held to be not mandatory, and simply because of non-compliance thereof, the recovery as well as the trial is not vitiated. He submits that



the present case cannot be said to be one of prolonged incarceration, inasmuch as the accused-applicant has remained behind bars for only about one and a half years. He further submits that appropriate directions may be issued to the learned Trial Court to expedite the trial, in case the prosecution witnesses have not yet been examined.

5. Heard learned counsel for the applicant as well as the learned Public Prosecutor and perused the material available on record.

6. As far as the ground of delayed sampling and sending of the samples to the FSL is concerned, the same by itself would not make the recovery doubtful or vitiate the trial. The Hon'ble Apex Court, in the case of ***Bharat Aambale v. State of Chhattisgarh, (2025) 8 SCC 452***, has categorically held that the provisions of Section 52-A of the Act of 1985 and the Rules of 2022 are not mandatory and that simply because there is some delay in sending the samples, it cannot by itself lead to the conclusion that the samples were not intact or that the trial is vitiated. Thus, the ground of some delay in sending cannot be held to be fatal to the trial at this stage and, by itself, would not be sufficient to record the satisfaction as mandated under Section 37 of the Act of 1985. Thus, the ground of delay in sending the samples to the FSL cannot be sustained at this stage, though the same is available to be considered at the stage of trial.

7. As far as the ground of prolonged incarceration is concerned, the Hon'ble Apex Court, in the case of ***Mohd. Muslim @ Hussain v. State (NCT of Delhi), (2023) 18 SCC 166***, has categorically held that the embargo under Section 37 of the Act of 1985 has to be read along with the provisions of Article 21 of the Constitution



of India, wherein the accused-applicant is having the 'right to a speedy trial'. However, the embargo under Section 37 of the Act of 1985 would have to give way to Article 21 of the Constitution of India in case the accused-applicant has undergone half of the minimum sentence prescribed for the offence in question. In the present case, the minimum sentence prescribed is 10 years and the maximum sentence prescribed is 20 years. The accused-applicant has remained behind bars for only one and a half year which cannot be said to be a case of prolonged incarceration.

8. The Hon'ble Apex Court, in the case of **Union of India vs. Vigin K. Varghese, 2025 SCC OnLine SC 2440**, while dealing with an identical issue of prolonged incarceration, has held as under:-

"17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance."

9. In **Union of India vs. Namdeo Ashruba Nakade, 2025 SCC OnLine SC 3049**, while dealing with the issue of long incarceration, the Hon'ble Apex Court, held as under:-

"11. In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got



the cavities ingeniously fabricated below the trailor to conceal the contraband."

10. Very recently, the Hon'ble Apex Court, in the case of **State of Punjab vs. Balraj Singh @ Billa, 2026 SCC OnLine SC 1058**, has held that while dealing with bail applications involving commercial quantities of narcotic drugs, the embargo under Section 37 of the NDPS Act, 1985, has to be considered, and satisfaction regarding the twin conditions laid down therein has to be recorded. The Hon'ble Apex Court, while considering the period of incarceration of 1 year and 7 months, has held as under:-

"18. Upon consideration of the case of the respondent against the twin conditions laid down in Section 37, we are of the view that no case for bail is made out. There are antecedents involving commission of offences of the very same nature under the NDPS Act, therefore it cannot be said that he is not likely to commit such an offence while on bail.

19. Moreover, the respondent has only undergone 1 year 7 months, and if found guilty a maximum sentence of twenty years may be imposed upon him. Therefore, it cannot be said that he has suffered incarceration for a long period, warranting interference in view of Article 21 of the Constitution.

20. While this Court has recognized on several occasions that prolonged incarceration warrants the grant of bail in view of Article 21 of the Constitution, we have noticed that the application thereof is not uniform. Moreover, there is no doubt that what constitutes "prolonged incarceration" for the purposes of bail, has not been expounded by this Court or the law of the land."

11. Again, in the case of **State of Punjab vs. Sukhwinder Singh @ Gora, 2026 SCC OnLine SC 671**, an identical issue came up for consideration before the Hon'ble Apex Court, wherein it has been held as under:-

"10. The impugned order, on its own showing, does not record the satisfaction mandated under Section 37(1)(b)(ii) of the NDPS Act. Far from recording such satisfaction, the High Court has gone on to observe that 'the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial.' Such an approach is plainly



contrary to the settled law laid down by this Court and deserves to be set aside on this ground alone. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious Constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37, NDPS Act are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has in this Court's view, committed an error."

12. Thus, the law is no longer *res integra* that even in cases of prolonged incarceration (except for the period as specified in Mohammad Muslim's case), the twin prongs of Section 37 of the Act of 1985 have to be considered and satisfaction has to be recorded and simply on the ground of long incarceration, bail cannot be granted.

13. In the present case, the recovery has been effected from the conscious possession of the accused-applicant, and it is not even the case of the accused-applicant that there has been non-compliance of the mandatory provisions of the Act of 1985. Even otherwise, the presumption under Section 35 of the Act of 1985 would come into force in the case in hand, and the accused-applicant has not been able to satisfy the twin conditions provided under Section 37 of the Act of 1985 for grant of bail.

14. Thus, no case for grant of bail is made out. Accordingly, the present bail application is dismissed. However, the learned Trial Court is directed to expedite the trial proceedings.

**S.B. Criminal Miscellaneous Bail Application No. 333/2026:-**

1. After arguing the matter at some length, learned counsel for the applicant submits that he does not wish to press the present criminal miscellaneous bail application at this stage and seeks liberty to file a fresh bail application after recording of the statement of Seizure Officer and also seeks a direction to expedite the trial.

2. Considering the submissions made, the present bail application is dismissed as not pressed. However, liberty is granted to the applicant to file the fresh bail application after recording of the statement of Seizure Officer and the learned Trial Court is directed to expedite the trial and conclude the same as soon as possible and further get the statement of Seizure Officer recorded on priority basis.

(SANDEEP SHAH),J