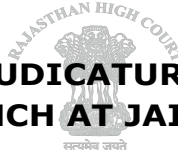




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 675/2026

Ajay Singh S/o Late Malaram, Age 57 Years, R/o Plot No. 65,
Gayatri Nagar-A, Maharani Farm, Durgapura, Jaipur At Present
In Central Jail Jaipur.

-----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor.

-----Respondent

For Petitioner(s)	:	Mr. Manish Sharma with Mr. Vikas Bunkar
For Respondent(s)	:	Ms. Arti Sharma, PP with Mr. Vijay Singh Yadav, PP
For Complainant(s)	:	Mr. Lalit Lakwal with Mr. Akshya Varma

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

10/03/2026

1. Instant Criminal Misc. Petition under Section 528 of BNSS has been filed by the petitioner assailing the order dated 22.12.2025 passed by learned Additional Sessions Judge, No.10, Jaipur Metropolitan-I (Headquarter Sanganer) in Criminal Misc. Bail Application No.545/2025 (CIS No.954/2025), only to the extent of imposing a condition upon the petitioner to furnish a bank guarantee of Rs.20,00,000/-, while granting bail to him under Section 483 of the BNSS.

2. Learned counsel for the petitioner submits that imposing a bank guarantee to the tune of Rs.20,00,000/- as a condition for bail is onerous and unsustainable. Counsel has placed reliance upon the order dated 20.01.2023 passed by Hon'ble Supreme



Court in the case of **Subhash Chouhan versus Union of India**, arising out of SLP (Crl.) No.6640/2022, whereby the Hon'ble Supreme Court set aside the condition asking the appellant to deposit an amount for being released on bail.

3. Learned counsel appearing for complainant-respondent No.2 submits that petitioner is a habitual offender as apart from this, 15 other FIRs have been registered against him therefore, learned trial Court has not committed any error by imposing such a condition on the petitioner.

4. Learned State Counsel submits that the Court may pass appropriate order in the facts and circumstances of the case.

5. I have considered the submissions made by learned counsel for the parties and perused the material available on record.

6. It has been made clear by the Hon'ble Supreme Court in a catena of judgments that directing a person to pay an amount for being released on bail is not sustainable in the eyes of law. In the case of **Gajanan Dattatray Gore versus State of Maharashtra and Anr.**, reported in **2025 SCC OnLine SC 1571**, it has been observed by the Hon'ble Supreme Court that bail should be granted on merits and not on the basis of deposition of some amount. The relevant paragraphs are being reproduced for ready reference:

"19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.



20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make.

21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court. 22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again.

23. In the case in hand, so far as the plea for regular bail is concerned, we are not inclined to look into. The appellant has made a mockery of justice. He could be said to have abused the process of law. If at all the High Court wanted to release the appellant on bail, it should have first asked him to deposit the amount within a particular period of time and upon such deposit the appellant could have been released.

24. Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail."

7. In the case of **Prantik Kumar & Anr. versus The State of Jharkhand & Anr.**, arising out of Special Leave Petition (Criminal) Diary No.4297/2026, Hon'ble Supreme Court has held as under:



"8. It is very unfortunate that despite this Court saying in so many words that grant of regular bail or the anticipatory bail should not be subject to deposit of any amount, the High Court has said that the petitioners should deposit the balance amount of Rs.9,12,926.84.

9. In our Judgment, referred to above, we made ourselves very clear that if a case for grant of bail or anticipatory bail is made out, then the Court should proceed to pass an appropriate order and if not made out, the Court may decline, however, Court should not pass a conditional order of deposit of a particular amount and then exercise its discretion."

8. In view of the aforesaid discussion and law laid down by the Hon'ble Supreme Court in the cases of **Subhash Chouhan (supra)**, **Gajanan Dattatray Gore (supra)** & **Prantik Kumar (supra)**, this Court is of the considered view that the learned trial Court has committed error in imposing the condition of furnishing the bank guarantee to the tune of Rs.20,00,000/- while granting bail to the petitioner and same deserves to be set aside.

9. Consequently, this Criminal Misc. Petition is allowed and the condition imposed by the trial Court in the order dated 22.12.2025, directing the petitioner to furnish the bank guarantee of Rs.20 Lakhs is hereby set aside. The order dated 22.12.2025 passed by the trial Court stands modified, accordingly.

10. With the aforesaid observations, this Criminal Misc. Petition stands disposed of.

11. Stay application and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J