

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous IVth Bail Application No. 3468/2026

Rakesh S/o Pukhraj, Aged About 21 Years, R/o Khedi Salwa, Ps
Dangiyawas, District Jodhpur (Raj.).
(At Present Accused Confined In District Jail, Kota)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Nirmal Kumar Sharma
For Respondent(s)	:	Mr. Devi Singh, PP

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

27/02/2026

1. The instant bail application has been filed under Section 483 BNSS on behalf of accused-petitioner. The accused-petitioner has been arrested in connection with FIR No. 178/2023 registered at Police Station Mandana, District Kota (Rural) for the offences under Sections 8/15 and 8/29 of NDPS Act.
2. Learned counsel for the accused-petitioner submits that the accused-petitioner has falsely been implicated in this case. It is contended by learned counsel for the petitioner that petitioner has filed this fourth bail application on the ground that second bail application was dismissed by this court on 19.11.2024 and interim bail application was dismissed as withdrawn on 23.01.2025. The accused-petitioner is in custody since 21.10.2023 and out of 18 cited witnesses statement of only five witnesses have been recorded. It is also contended that in compliance of Section 105 of

BNSS the sample drawn was sent to the FSL with a delay of 10 days. It is further contended that no reasons were assigned in the arrest memo with regard to petitioner's arrest. Learned counsel for the petitioner places reliance upon the judgment passed by the Hon'ble Apex Court in the special leave to appeal No. 16671/2024 decided on 10.01.2025 and special leave to appeal criminal No. 7049/2025, it is contended that in both the matters Hon'ble Apex Court granted bail to the petitioner considering the period of incarceration and delay in sending the sample for analysis in the forensic science laboratory, considering the aforesaid, the instant fourth bail application of the accused-petitioner may be allowed.

3. Learned Public Prosecutor opposed the bail application and contended that petitioner's second bail application was dismissed by this court while recording the observation that prima facie there is enough material against the petitioner with regard to carrying commercial quantity of poppystraw in a vehicle bearing No. RJ-19-CA-1858 the court also recorded that the provision of Section 37 of the NDPS Act are mandatory and in the light of three judges Bench judgment NCB Vs. Mohit Agarwal 2022 Live Law (SC) 613, therefore the bail application may be dismissed.

4. Heard and perused the material available on the record.

5. This court vide order dated 19.11.2024 dismissed the petitioner's second bail application recording the reasons that prima facie petitioner's involvement in the said offence is apparent and commercial quantity of contra band of the article containing 140.700kg of poppystraw was recovered, the court dismissed the bail application considering the delay in trial and petitioner's incarceration after citing the judgment of NCB Vs. Mohit Agarwal

(supra) whereby learned Apex Court held that mere delay in trial cannot be a ground to dilute the conditions enshrined under Section 37 of the NDPS Act, therefore considering the aforesaid facts, this court is not inclined to enlarge the accused-petitioner on bail.

6. Accordingly, the present fourth application of the accused-petitioner is hereby dismissed.

(PRAVEER BHATNAGAR),J