

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 4727/2026

Prakash Choudhary S/o Shyamlal, Aged About 23 Years, R/o Village Ghanamagra, Police Station Pichiyak, Dist. Jodhpur Gramin, Currently At House No. 18, Keshar Colony, Digari Kalan, Sardarpura, Jodhpur, Police Station Banar,district Jodhpur (At Present Confined In Central Jail Jaipur.

-----Petitioner

Versus

State Of Rajasthan, Through P.p.

-----Respondent

For Petitioner(s)	:	Mr. Prakash Lamba
For Respondent(s)	:	Mr. Vijay Singh Yadav, PP

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

04/05/2026

1. The present bail application under Section 483 of BNSS is filed by the applicant-accused **Prakash Choudhary S/o Shyamlal** seeking bail in respect of a criminal case registered as FIR No.804/2025 dated 15.09.2025 registered at P.S. Mansarovar District - Jaipur City (South), for the offence under Sections 8 and 22 of NDPS Act.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the matter and the investigation against him is complete and he is no more required in investigation. He further submits that there are no chance of fleeing of applicant accused from the jurisdiction of this Hon'ble Court. He also submits that the

applicant undertakes not to repeat offence and cooperate with trial, which will take time.

3. Learned Counsel for the petitioner submitted that no recovery has been effected from the petitioner and petitioner is nowhere involved in the transaction of contraband which was recovered from Kamlesh Kumar. He further submitted that the petitioner is a young person and he has been arrested on 27.02.2026, but neither before arrest nor after arrest, either the grounds of arrest were informed or intimation of arrest was supplied to the family member of the petitioner. He placed reliance upon judgment in case of **Vihan Kumar versus State of Haryana and Anr. reported as 2025 INSC 162** and submitted that the provisions are mandatory and same is violative of Article 21 of the Constitution of India. He also placed reliance upon **order dated 19.02.2026** in case of **Basheer Thaliyil versus State of Kerala and another (Bail Application No.828/2024)** passed by a coordinate Bench at Kerala High Court and submitted that the arrest in such a case is not only illegal, but the petitioner is entitled for bail. He also submitted that now the investigation has been concluded and charge sheet has already been filed wherein there is no legal evidence to name present petitioner under Section 29 of the NDPS Act.
4. Learned Public Prosecutor has vehemently opposed the bail application and submitted that the allegations are grave and serious in nature. He has also filed a report received from concerned Police Station.

5. Heard learned counsel for the petitioner-accused and learned Public Prosecutor. Perused the material placed on record by both the parties.
6. In the midnight of 14/15.09.2025, after receiving information during patrolling, SHO, Police Station Mansarovar, along with other members of police team, has stopped Kamlesh Kumar Vishnoi in suspicious condition and after serving him notice under Section 50 of the NDPS Act, has recovered 87.70 gram of methamphetamine (MD). After proceedings, FIR No. 804/2025 dated 15.09.2025 under Sections 8/22 of NDPS Act was registered at Police Station Mansarovar, Jaipur City South. During investigation, police came to know that Kamlesh Kumar had procured the contraband from Prem Dudi, who has procured the contraband from Prakash Choudhary. The police has collected money transaction trail along with statement of bank accounts and further arrested present petitioner on 27.02.2026.
7. A Coordinate Bench of this Court has also dismissed the second bail applications of Prem Dudi and Kamlesh on 24.04.2026 as withdrawn. Even a female friend of Kamlesh Kumar, namely Alka Vishnoi, was also arrested and her bail application was dismissed on 12.11.2025. The material on record indicates that after investigation, charge sheet against Kamlesh, Alka, Prem Dudi and Prakash Choudhary has already been filed.
8. In case of **Vihaan Kumar (supra)**, Hon'ble Supreme Court has considered the issue of constitutional safeguards in

effecting arrest of any individual. The conclusions drawn in the said case are reproduced as under:

21. Therefore, we conclude:

- a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);
- b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;
- c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);
- d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the

investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

9. In case of **Basheer Thaliyil versus State of Kerala and another (supra)**, after considering judgments in case of **Vihaan Kumar (supra)** and **Kasireddy Upender Reddy Vs, State of Andhra Pradesh reported in 2025 SCC OnLine SC 1228**, a coordinate Bench has held that failure of communication of grounds of arrest renders arrest illegal as no grounds of arrest were communicated to the relatives of applicant in writing.
10. This Court has considered the issue as raised by learned counsel for petitioner regarding communication of grounds of arrest and also post-arrest written communication to the

relative of petitioner. The petitioner was arrested on 27.02.2026 and on 01.03.2026 he was remanded to judicial custody. The record indicates that the petitioner was produced for the first time before the Magistrate and subsequently again for judicial custody remand, but he has not raised any objection regarding non-communication of grounds of arrest or non-communication about the status of arrest. The material referred by the petitioner indicates that intimation regarding arrest of petitioner was given to his father on his mobile number, though the fact is mentioned that petitioner had suggested to inform his father.

11. The duty lies upon the police to carry out the mandate in letter and spirit as Hon'ble Supreme Court in case of **Vihaan Kumar (supra)** and thereafter in case of **Kasireddy Upender Reddy Vs, State of Andhra Pradesh (supra)** has clearly laid down that it is mandatory to inform reasons of arrest and also to give post-arrest written communication. The non-compliance is an act which is required to be taken up on administrative side and for that purpose this Court may direct the concerned Commissioner of Police to take action against the individual who is responsible for non-communication, but this is not a ground to declare arrest as illegal, that too at High Court level while considering bail under Section 483 of BNSS, as same is not under challenge before this Court.
12. Having considered the material available on record and also the record referred by learned Public Prosecutor and filed with charge sheet, this Court is of the considered view that

this is a serious case, therefore there is no reason to release petitioner on bail, in particular when bail applications of identically placed persons, namely Prem Dudi, were rejected on two occasions as withdrawn by a coordinate Bench of this Court.

13. Accordingly, the application for bail filed under Section 483 of BNSS preferred by **Prakash Choudhary S/o Shyamlal** is hereby dismissed.
14. A copy of this order be sent to the Commissioner, Jaipur Police for compliance about observation of non-compliance.
15. A copy of this order be sent to the trial court through E-mail.

(ASHOK KUMAR JAIN),J