

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Bail Cancellation Application No. 51/2025

Rajasthan Aasuchana Nideshalya / Dri, Through Special Public Prosecutor.

----Complainant/Petitioner

Versus

1.

Ms. Anisaben Dadabhai Shekh D/o Dadabhai Alimiya Shekh, R/o C 53, Maruti Nagar, Khamdhrol, Junagadh, Gujarat-362027

.....Respondent /accused
2.

Mr. Muhammed Suhail Bachikantavada S/o Shri Mustafa Vattakandy Kollarakath, R/o Fathima Manzil, Kambil, Kolacherry Po Kannur 670601.

-----Respondent/accused

For Complainant/ Petitioner(s)	: Mr. Jitendra Singh Poonia
For Respondent/ Accused(s)	: Mr. Jitendra Bhakar, Mr. Akshaya Varma

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

15/04/2026

1.

This bail cancellation application has been filed by the petitioner under Section 483(3) of B.N.S.S., 2023, with a challenge to the order dated 03.02.2025 passed by the Court of learned Special Judge, NDPS Cases, Jaipur Metropolitan-I Jaipur, in Bail Application No. 86/25 and 91/25 whereby the accused-respondents have been enlarged on bail.

2. The submission made by the learned counsel for the complainant-petitioner is that the learned Court below while passing the order for enlarging the accused-petitioner on bail, have not taken into consideration the restrictions as provided under Section 37 of the NDPS Act. In respect of the bail, he further submits that recovered contraband i.e. 3.727 kg. Hydroponic Weed is more than the small quantity, therefore, the bail granted to the accused-respondents may kindly be cancelled.

3. Learned counsel appearing for the accused-respondents opposed the prayer made by the learned counsel for the petitioner and submits that since the quantity of contraband recovered from the possession of the accused-respondents is less than the commercial quantity. The provisions of Section 37 of the NDPS Act are not attracted and, therefore, the learned Court below has not committed any error in enlarging the accused-respondents on bail.

4. Learned counsel appearing for the complainant-petitioner has referred the orders passed by the Coordinate Bench of this Court in ***Indrajeet Kumar Nishad V/s Union of India S.B. (Criminal Misc. Bail Application No. 1951/2026) decided on 09.02.2026, Karan Mehra V/s Union of India (S.B. Criminal Misc. Bail Application No. 8926/2025) decided on 07.10.2025, Mir Shahid Hussain V/s Union of India (S.B. Criminal Misc. Bail Application No. 13352/2025).***

5. Considered the submissions made by the learned counsel for the complainant-petitioner as well as the learned counsel for the accused-respondents and perused the material

available on record, including the order passed by the learned Court below.

6. The basic issue raised by the learned counsel for the complainant-petitioner is that the Court below while enlarging the accused-petitioner on bail, has not taken into consideration the provisions/ restrictions provided under Section 37 of the NDPS Act. Section 37 of the NDPS Act read as under:-

"37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—
(a) every offence punishable under this Act shall be cognizable;
(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless— (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.
(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail."

7. The Hon'ble Apex Court in case of **Puranmal Jat Vs. State of Rajasthan** in **Criminal Appeal No.3394/2023** arising out of **SLP (Crl.) No.10670/2023**, observed that the restriction on grant of bail under Section 37 of the NDPS Act, does not apply in the cases where the contraband recovered is less than the commercial quantity. Relevant part of the order is quoted as under:-

"Heard learned counsel for the appellant and the respondent.
The allegations against the appellant relate to commission of offence under the provisions of Sections 8 and 15 of the Narcotic Drugs and

Psychotropic Substances Act, 1985 (hereinafter called "the Act"). Alleged recovery from him is about 35 kgs. and 150 grams *Doda Posh* (Poppy straw). The commercial quantity for poppy straw is 50 kgs. The appellant is in custody for over seven months. Charge-sheet has been submitted in the case. The recovered contraband item having weight less than the stipulated commercial quantity, the restriction on grant of bail under Section 37 of the Act does not apply in his case. We do not think his continued detention pending trial is necessary in the given circumstances.

We, accordingly, set aside the judgment under appeal and direct that the appellant be released on bail in connection with FIR No.91/2023 dated 23.03.2023 registered with Police Station Narayanpur, District Alwar, Rajasthan, on such terms and conditions the Special Court may consider fit and proper."

8. In view of the observations made by the Hon'ble Apex Court in case of ***Puranmal Jat(supra)***, this Court finds no merit in the submissions made by the counsel for the complainant-petitioner.

9. Accordingly, this criminal misc. bail cancellation application is dismissed.

(GANESH RAM MEENA),J