

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 4925/2026

Hari Om Prajapat S/o Shri Gopal Prajapat, Aged About 28 Years,
R/o Village Sangramgarh, Police Station Badnor, District
Bhilwara, And Currently Residing At House No. C-10, Vardhman
Nagar, Near 200 Feet Bypass, Police Station Shyam Nagar,
Jaipur. (The Accused /appellant Is Currently In Judicial Custody
In Jaipur Central Jail).

-----Petitioner

Versus

Government Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Naresh Chandra Goyal Mr. Tanmay Goyal
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 **Hari Om Prajapat S/o Shri Gopal Prajapat** seeking bail in respect of a criminal case registered as FIR No.70/2026 dated 09.02.2026 registered at P.S. Mansarovar, District-Jaipur (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 investigation/trial, which will take time.

3. Learned counsel for petitioner submitted that without ensuring compliance of provisions under NDPS Act, search and seizure was effected by police. Further submitted that petitioner was not given an opportunity under Section 50 of NDPS Act to be searched before the Magistrate or a Gazetted Officer. He also submitted that the recovered quantity of methamphetamine is 55.02 gram, which is at borderline and same cannot be treated as commercial quantity. He also submitted that FSL report has not been received so far and without FSL report, the police has presumed the recovered contraband as methamphetamine. He also submitted that the petitioner was not given any opportunity to represent himself. At last, he submitted that there are no criminal antecedents against the petitioner and considering his family status, he be given benefit of bail.
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 night of 8-9 February, 2026, SHO PS Mansarovar, after receiving a secret information about supply of drugs, has drawn the memos and intimated the senior officers. Thereafter, intercepted car number RJ14TD3872 and

detained present petitioner accused Hariom. After serving him a notice under Section 50 of NDPS Act, he has searched and recovered 55.02 gram of methamphetamine. The police has also recovered ₹17,900 as proceed of contraband drugs sale. After proceeding, FIR No. 70/2026 dated 9.2.2026 under Section 8/22 of NDPS Act was registered at PS Mansarovar, Jaipur City South. The accused was arrested on 9.2.2026 and since then he is in custody.

7. The recovered quantity of methamphetamine is approximately 55 gram and same is more than commercial quantity. The commercial quantity is fixed at 50 gram. In case of recovery of commercial quantity, it is necessary to satisfy the twin condition under Section 37 of NDPS Act. The material on record also indicated that when a notice under Section 50 of NDPS Act was served to the petitioner, he has given an option to be searched by SHO. After, if there is any defence to this notice, then petitioner may raise this ground during trial, but at this stage of bail, it is not possible to examine the truthfulness of the police proceedings.
8. 1. In case of **State of Meghalaya vs Lalrintluanga Sailo 2024 INSC 537** Hon'ble Supreme Court after considering a 3 Judge bench judgment in case of **Customs, New Delhi vs Ahmadalieva Nodira (2004) 3 SCC 549** has observed that while considering bail in a commercial quantity something more than prima facie grounds as to be existed in favor of accused which contemplates substantial and probable cause for believing that accused is not guilty of the alleged offence. Considering the judgment in case of

State of Kerala vs Rajesh (2020) 12 SCC 122 it was held that broad parameters laid down by the Supreme Court has to be followed while considering an application for bail moved by an accused involved under the NDPS Act. After considering the legal provisions, the bail granted to Smt. "X" by the High Court was canceled and she was directed to surrender before the Trial Court.

9. 2. In case of **NCB Vs. Mohit Agarwal (Criminal Appeal No. 1001-1002/2022)** a three Judge Bench of the Hon'ble Supreme Court while considering Section 37 of NDPS Act has observed that the length of period of custody is not a ground to release accused on bail. Recently, a bail granted by a Co-ordinate Bench of the High Court of Delhi was under challenge before Hon'ble Supreme Court in case of **NCB Vs. Kashif 2024 INSC 1045** and while remitting back the matter, Hon'ble Supreme Court has observed that the provisions of NDPS Act are required to be interpreted while keeping in mind the scheme, object and purpose of the act along with the impact on society as a whole. It has to be interpreted literally and not liberally as that may ultimately frustrate the object and purpose of preamble of the Act. While considering the application for bail, the Court must bear in mind the provision of Section 37 of NDPS Act which is mandatory in nature.
10. The facts and the material indicate that the alleged offence are of serious nature and role attributed to applicant is prima facie sufficient to consider complicity of applicant in the crime. Therefore, at this juncture, considering the evidence

collected so far, this is not a fit case to enlarge the applicant accused on bail. The condition as provided under Section 37 of NDPS Act are not satisfied.

11. Considering the gravity of allegations and overall facts and circumstances of the case, it is appropriate to dismiss the bail application of the applicant accused at this stage.
12. Accordingly, the application for bail filed under Section 483 of BNSS preferred by **Hari Om Prajapat S/o Shri Gopal Prajapat** is hereby dismissed.

(ASHOK KUMAR JAIN),J