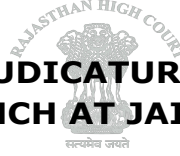




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous 2nd Bail Application No. 5024/2025

Sheikh Farid S/o Sh. Badshah Sheikh, Aged About 40 Years, R/o Andar Kot, Badabhav Akbari Masjid Ke Pass, Amba Bawdi, Police Station Dargah, Ajmer. (At Present Lodged In Central Jail, Ajmer).

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Vivek Goyal
For Respondent(s)	:	Mr. Shri Ram Dhakad, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

09/04/2025

1. The instant second bail application has been preferred on behalf of petitioner herein under Section 483 of BNSS who has been arrested in connection with FIR No.61/2024 registered at Police Station Clock Tower, District Ajmer (Raj.) for the offence punishable under Section 8/20 of NDPS Act. Later on, police filed charge-sheet in this matter.
2. First bail application of the petitioner was dismissed as withdrawn with liberty to renew the prayer of bail after recording the testimony of Seizure Officer. Now, Seizure Officer of this case has been examined during the course of trial thus, this second bail application has been preferred.
3. It is contended by learned counsel for the petitioner that the accused-petitioner has falsely been implicated in this case. Counsel submits that co-accused person namely Moyuddin Akhan



was found in possession of 8 kgs and 250 gms Ganja and another co-accused person namely Noor Alam was found in possession of 8 kgs and 280 gms Ganja. It is submitted that three other persons were also found in possession of Ganja bearing 10.350kgs, 8.250kgs & 10.392 kgs respectively. Counsel submits that all the accused persons were found in possession of separate quantity of contraband therefore, it is not appropriate to club the entire quantity to bring the quantity of contraband in the category of commercial quantity. Counsel submits that this issue was considered by co-ordinate Bench of this Court in the case of **Akhilak @ Vilasan & Anr. Vs. State of Rajasthan** reported in **2010(2) Cr.L.R. (Raj.) 1542** wherein it was held that if two persons are carrying separate quantity then same cannot be clubbed. Counsel submits that it appears from testimony of Seizure Officer that separate recovery was made from each accused and all were found at public place. Relying upon the judgment passed by Hon'ble Apex Court in case of **Mallikarjun Vs. The State of Karnataka** arising out of Special Leave to Appeal (Crl.) No(s).3341/2023 wherein in identical circumstances, benefit of bail was granted to the accused by considering the arguments of the counsel and it was observed that *"since it is a case of two accused carrying two separate bags containing different quantity of contraband, clubbing of the total contraband in the two bags was not at all justified as that would bring the quantity of contraband to commercial quantity category and it will be prejudicial to the accused. Moreover, if individual bags are taken into account, the contraband would be below the commercial quantity"*. It is submitted that other co-accused



persons of this case namely- Parul Begum, Yazuddin Sheikh, Moyuddin Akhan and Noor Alam have already been granted benefit of bail by this court. Petitioner is in custody since his date of arrest and further custody of the petitioner would not serve any fruitful purpose.

4. Learned Public Prosecutor opposes the submissions made by learned counsel for the petitioner. He submits that it is true that all the accused persons were carrying separate bags of contraband and thus, individual quantity recovered from them is below commercial quantity but if the same is clubbed, it would come within the definition of commercial quantity.

5. I have considered the contentions.

6. Having regard to the totality of the facts and circumstances of the case; considering the arguments advanced by learned counsel for the petitioner, material made available on record in the form of charge-sheet including testimony of Seizure Officer so also considering the observations made by co-ordinate Bench of this Court in **Akhilak @ Vilasan & Anr.** (Supra); looking to the custody period, but without commenting anything on the merits/demerits of the case, I deem it proper to allow the bail application.

7. Accordingly, the second bail application preferred on behalf of petitioner- **Sheikh Farid S/o Sh. Badshah Sheikh** is allowed and he shall be released on bail provided, he furnishes a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) together with two sureties in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each to the satisfaction of the learned trial Court with the stipulation that he shall appear before that



Court and any Court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

8. It is made clear that the accused-petitioner shall not involve in any other offence(s) during currency of the bail and he shall mark his presence in second week of every month in the concerned police station, till trial is concluded.

9. Concerned SHO is directed to maintain a register recording the attendance of the petitioner, as directed above. In case the petitioners fail to mark their presence in the concerned police station, as directed above, the concerned SHO is directed to immediately report the matter to the concerned Court in this regard.

10. If breach of any of these conditions is reported or come to the notice of the Court, the same shall alone be a reason for the trial Court to cancel the bail granted to him by this Court.

11. The observation made herein above is only for decision of these instant bail applications and would not have any impact on the trial of the case in any manner.

(ANIL KUMAR UPMAN),J