

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous 2nd Bail Application No. 4669/2024

Madanlal S/o Udaram, Aged About 63 Years, R/o Sutharo Ka Bas,
Asar Talai, Police Station Jaitaran, Byavar (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. Riyasat Ali, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

22/04/2024

1. The instant Second bail application has been filed under Section 439 of Cr.P.C. on behalf of the petitioner, who has been arrested in connection with FIR No.162/2023 registered at Police Station Mandana, District Kota Rural for offence punishable under Section 8/15 of NDPS Act.
2. Learned counsel for the petitioner submits that the first bail application (No.15647/2023) was dismissed by this Court vide order dated 13.03.2024. Learned counsel for the petitioner submits that according to the prosecution case, petitioner was found in possession of 76 kg 200 gm (gross-weight) of Poppy Husk (Doda Chura). He submits that on 31.10.2023, the charge-sheet was filed before the learned court below without the FSL report which renders the charge-sheet as incomplete. Based on these facts and circumstances, an application was filed by the

petitioner under section 439 Cr.P.C read with section 167(2) of Cr.P.C before the learned trial court but the said application was rejected by the learned trial Court vide order dated 05.04.2024. Counsel for the petitioner has relied upon the order passed by Hon'ble Supreme Court in the case of **Pankaj Gupta vs. Narcotics Control Bureau** in SLP (Crl) No(s). 12200/2023 dated 04.12.2023, wherein, Hon'ble Apex Court considered the identical issue involved in this bail application and observed that the said issue is pending consideration in a bunch of petitions. Considering the fact that it would take sometime in deciding the issue, benefit of interim bail was granted to the accused person therein. Learned counsel submits that the petitioner is in custody since 10.09.2023. He thus prays that the petitioner may be released on bail.

3. Having regard to the totality of the facts and circumstances of the case and the observation and direction made by the Hon'ble Apex Court in the case of **Pankaj Gupta (supra)** and considering the arguments advanced by learned counsel for the petitioner, this Court deems it just and proper to direct that accused-petitioner-**Madanlal S/o Udaram arrested in connection with FIR No.162/2023 PS Mandana, Kota Rural** shall be released on interim bail provided he furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees Fifty Thousand Only) together with two sureties in the sum of Rs.50,000/- (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.

4. It is made clear that the accused-petitioner shall not involve in any other offence(s) during currency of the interim bail and he shall mark his presence twice in a month i.e., 1st and 15th of every month in the concerned police station. It is further directed that he shall share his mobile number with the SHO of the concerned police station.

5. If any breach 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 interim bail granted to him by this order.

6. Learned State counsel is directed call for the case diary on the next date of hearing. He shall also apprise the Court regarding the final decision on the aforesaid issue, which is pending consideration before Hon'ble the Supreme Court so that final order may be passed in the instant bail application.

7. List this case on 27.05.2024.

(ANIL KUMAR UPMAN),J