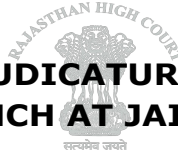




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Misc. 2nd Bail Application No. 5497/2026
URN: CRLMB / 9775U / 2026

Papparam S/o Shri Chokharam, R/o Matvalo Ki Dhani, Bala,
Kaparda, District Jodhpur (Raj.) (Presently Confined In Central
Jail Ajmer).

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Chain Singh Rathore, PP
For Respondent(s)	:	Mr. Amit Punia, PP with Mr. Rajendra Singh, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

29/06/2026

1. This second bail application under Section 483 BNSS has been filed on behalf of the petitioner, who has been arrested in connection with FIR No.250/2023 registered at Police Station Adarsh Nagar (Ajmer), District Ajmer for offence punishable under Section 8/15 of NDPS Act. After completion of investigation, police filed charge-sheet in this matter.
2. The first bail application filed on behalf of the petitioner was dismissed as withdrawn by this Court vide order dated 11.09.2025 while giving liberty to renew the prayer for bail after recording the testimony of Seizure Office. Now, Seizure Officer has been examined during the course of trial thus, this second bail application has been preferred.



3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. Counsel submits that it is an admitted case of prosecution that on the basis of secret information, the vehicle of the petitioner was searched and seized on 24.08.2023. Counsel submits that no independent witness was associated during the search and seizure proceedings and this fact has been admitted by the Seizure Officer in his statement. Counsel submits that association of the independent witnesses contemplated under Section 103 of the BNSS (Corresponding to Section 100 of the Cr.P.C) is not a mere formality and concerned officer is required to make all endeavour to associate the independent witnesses from the same vicinity. He cannot escape from his obligation merely by saying that a person refused to become an independent witness and if any person refuses to become a witness, his name should be recorded and proper action should be initiated against him for disobeying the order of the public servant.

4. Counsel further submits that there are serious lapses on the part of the prosecution. Counsel submits that alleged recovery was effected on 24.08.2023 and application for preparation of inventory was submitted on 05.09.2023, thereafter, inventory was prepared on 22.09.2023 and same day samples were drawn however, samples were deposited in the FSL on 04.10.2023 with a delay of about 12 days. It is submitted that there are no criminal antecedents against the petitioner and trial will take considerable time in its conclusion. Counsel submits that the petitioner is in custody since 25.08.2023, and as such, he has suffered



incarceration of more than two years and ten months. Further custody of the petitioner would not serve any fruitful purpose. Counsel further submits that the Hon'ble Supreme Court has taken the view in the matter of **Devendra Kumar Mishra @ Bade Guru versus The State of Madhya Pradesh in Special Leave to Appeal (Crl.) No.14639/2023** that on the ground of period of incarceration suffered by accused, bail application under the NDPS Act can be considered for grant.

5. Learned Public Prosecutor opposes the prayer of bail made by learned counsel for the petitioner. He submits that huge quantity of contraband has been recovered in this matter, therefore, considering the rigour of Section 37 of the NDPS Act, benefit of bail should not be granted to the petitioner.

6. I have considered the contentions.

7. Section 37 of the NDPS Act does not create an absolute embargo for grant of bail. Further, while considering an application for grant of bail, it is not required for the Court to record positive finding that the accused is not guilty. The only requirement of law is that the Court would look at the material in a broad manner and reasonably see whether the accused's guilt may be proved. The satisfaction which courts are expected to record i.e., the accused may not be guilty is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the material collected during investigation.

8. Having regard to the totality of the facts and circumstances of the case; considering the arguments advanced by learned counsel for the parties, material available on record in the form of



charge-sheet, especially the fact that application for preparing the inventory was filed after a delay of 12 days of the recovery and thereafter samples were sent to FSL with further delay of 12 days, as also the fact that petitioner does not have criminal antecedents of similar nature and trial will take considerable time in its conclusion as well as looking to the custody period, but without commenting anything on the merits/demerits of the case, this Court deems it fit and proper to allow this second bail application.

9. This second bail application is accordingly allowed and it is directed that accused-petitioner- **Papparam S/o Shri Chokharam**, shall be released on bail provided he furnishes a personal bond in the sum of Rs.5,00,000/- together with two sureties in the sum of Rs.2,50,000/- 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.

10. However, it is made clear that the petitioner shall not involve in any other offence(s) during currency of bail granted by this Court and he shall mark his presence in the concerned police station in first week of every month, till trial is concluded. Further, if the petitioner possesses a passport, he is directed to surrender the same before the learned trial Court.

11. Concerned SHO shall enter the attendance of the petitioner in the Roznamcha. In case the petitioner fails to mark his 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.

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

13. Office is directed to send a copy of this order to the concerned SHO for necessary compliance.

14. The observations made hereinabove are only for decision of the bail application and would not have any impact on the trial of the case in any manner.

(ANIL KUMAR UPMAN),J

9/Manoj Solanki