

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 12050/2025

Vikas Lamba S/o Chote Lal, Aged About 34 Years, R/o Village Chinaliya, Police Station Narnol, District Mahendragarh Haryana. (At Present Accused Confined In Central Jail, Jaipur).

-----Petitioner

Versus

Ncb, Through Special PP

-----Respondent

For Petitioner(s)	:	Mr. Nirmal Kumar Sharma
For Respondent(s)	:	Mr. Tej Prakash Sharma, Special PP

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

08/05/2026

1. The present bail application under Section 483 of BNSS is filed by the applicant-accused **Vikas Lamba S/o Chote Lal**, seeking bail in respect of a criminal case registered as FIR No.07/2024 dated 17.05.2024 registered at P.S. NCB Jaipur, for the offence under Sections 8/20 and 8/29 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 trial, which will take time.

3. Learned counsel for the petitioner has submitted that initially bail application of the accused Sadan Killo was dismissed by this Hon'ble Court, but he approached Hon'ble Supreme Court and on 10.03.2026, his bail application was allowed as he was charged only under Section 29 of the NDPS Act. He further submits that without following mandatory provisions under the NDPS Act, the NCB has searched and seized contraband article Ganja. He also submits that no independent witness was called at the time of search and seizure and moreover, no specific notice of search was given to the petitioner. He also submits that recovery from one person was 15.440 kg Ganja, whereas from another person which was 15.420 kg Ganja and individually, the quantity is less than commercial, but the trial Court has considered this quantity as joint and mandated and a satisfaction of condition under section 37 of NDPS Act. He also submits that the present petitioner is in custody since 17.04.2024. He also submits that the period of custody is sufficient to seek bail as the trial has not been concluded. He further referred delay in trial and submitted that only three witnesses were examined and still more than 2/3rd witnesses are remaining.
4. Learned counsel has also placed reliance upon order passed by Hon'ble Supreme Court dated 15.10.2025 in Criminal Appeal No.4554/2025 **(Vishal @ Nonu Vs. State of Rajasthan)** and submits that only on ground of period of incarceration, the accused was granted bail. He further referred bail orders passed by a Co-ordinate Bench of this Court in case of **Kanhaiyalal Gupta Vs. Narcotic Control**

Bureau (S.B. Criminal Miscellaneous Second Bail Application No. 9926/2018, order dated 17.12.2018) and in case of Smt. Anita Devi Vs. State of Rajasthan (S.B. Criminal Misc. Bail Application No. 12221/2010, order dated 01.03.2011).

5. Learned Special Public Prosecutor has vehemently opposed the bail application and submitted that the allegations are grave and serious in nature. He submits that second bail application of Sadhram and Vikash Kumar were dismissed by a Co-ordinate Bench of this Court on 05.02.2025. He further submits that the recovered quantity is commercial and without recording satisfaction under Section 37 of NDPS Act, bail cannot be granted to the petitioner.
6. Heard learned counsel for the petitioner-accused and learned Special Public Prosecutor. Perused the material placed on record by both the parties.
7. On 15.05.2024 on basis of information received by Search and Seizure Officer, he has intercepted Vikas Kumar and Vikas Lamba (present petitioner), when they were travelling in a roadways bus. On search of their bags, 30.460 kg of ganja was recovered from joint possession of Vikas Lamba and Vikas Kumar. The statement of both accused under Section 67 of NDPS Act were recorded. After inquiry, a complaint is filed against both the accused under Sections 8, 20 and 29 of NDPS Act. The present petitioner is in custody since his arrest on 17.04.2024. The order dated 06.09.2025 passed by the learned trial Court indicate that out of 12 witnesses, 3 have been examined and one has been expired.

We are now after 8 months of the passing of order and may be some more witnesses were examined.

8. The present petitioner is the person from whom recovery was effected. The co-accused Vikas Kumar, who accompanied the present petitioner at the time of search and seizure, was denied bail by a Co-ordinate Bench of this Court on 05.02.2025.
9. After dismissal of bail application of Sadan Killo by this Court, he approached Hon'ble Supreme Court, and on 10.03.2026, he has been granted bail. Admittedly, allegations upon Sadan Killoo was under Section 29 of NDPS Act, though second bail application of Sadhram was dismissed by a Co-ordinate Bench of this Court on 05.02.2025.
10. Here in this case, the recovered quantity was shown as joint recovery and considering the quantity, it is a commercial quantity, therefore, the court has to satisfy twin conditions as prescribed under Section 37 of NDPS Act. No doubt about that the petitioner is in custody for more than two years and trial has not been concluded, which is a very serious issue.
11. Recently, in case of **State of Punjab Vs. Sukhwinder Singh @ Gora** reported in **2026 INSC 411**, the Hon'ble Supreme Court has considered the recovery of commercial quantity from accused and effect of Section 37 under the NDPS Act at the time of grant of bail along with protection provided under Article 21 of the Constitution of India. In said case, the High Court has enlarged accused on bail as only

two of prosecution witnesses out of 24 were examined and further the trial is likely to take time.

12. It was held that in matters involving recovery of contraband in commercial quantity, the twin conditions under Section 37 of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The right to speedy trial, rooted in Article 21 of the Constitution of India, is undoubtedly a precious constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly, where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 of the Constitution and the special provision of law under Section 37 of NDPS Act are to be read harmoniously and not placed in opposition to each other
13. After considering the judgments in the case of **Narcotics Control Bureau v. Kashif : (2024) 11 SCC 372, State of Meghalaya v. Lalrintluanga Sailo and Another : (2024) 15 SCC 36 and Union of India v. Ajay Kumar Singh : 2023 SCC OnLine SC 346**, Hon'ble Supreme Court has held that it is necessary for the Court to record satisfaction on the twin conditions under Section 37 of the NDPS Act before granting bail to accused where recovery of commercial quantity is alleged.

14. Having considered the aforesaid and also the material placed on record, it is apparent from the record that the recovered quantity is commercial and there is no ground before this Court to record the satisfaction, therefore, the bail orders referred by the learned counsel for the petitioner are not helpful for the petitioner in getting bail in the instant case.
15. 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.
16. 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.
17. Accordingly, the application for bail filed under Section 483 of BNSS preferred by the applicant-accused **Vikas Lamba S/o Chote Lal** is hereby dismissed.
18. The trial Court is directed to expedite the trial and try to conclude the case within a period of one year from date of receipt of copy of the order.

(ASHOK KUMAR JAIN),J