



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous Bail Application No. 11692/2024

Kamal Kishore S/o Shri Sita Ram, Aged About 35 Years,
Bhadana, P.s. Mundwa, Distt. Nagaur. (At Present Lodged In
Central Jail Merta)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

Connected With

S.B. Criminal Miscellaneous Bail Application No. 11693/2024

Laxminarayan S/o Shri Shrawan Ram, Aged About 26 Years,
Bhadana, P.s. Mundwa, Distt. Nagaur. (At Present Lodged In
Central Jail, Merta)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Ananda Ram
For Respondent(s) : Mr. Shrawan Singh, PP

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI
Order

Reportable
20/09/2024

1. The prayer made in these bail petitions filed under Section 483 of BNSS (Section 493 of old Code) is for grant of bail in connection with crime registered pursuant to First Information Report Number 143/2024 of Police Station Thanwla District Nagaur in respect of offence(s) punishable under Section(s) 8/21, 8/15, 8/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. According to the facts stated in the First Information Report, on 27.08.2024 at 05.50 in early morning, 7 Gms. of contraband *Smack* and 7.100 Kgs. of contraband *poppy-straw* were recovered



from the possession of both the petitioners, who were travelling on a motorcycle bearing registration number RJ-21-MS-1259 on a road leading from Pushkar to Thanwala in Nagaur district. Both were arrested on the spot.

3. Learned counsel representing petitioner has fervently argued that recovered contraband weighs below the commercial quantity. Petitioners are innocent person and a false case has been foisted against them; that entire allegations so leveled by the police against the petitioners are totally false and baseless. With the aforesaid submissions, it was prayed that the present petition be allowed and petitioner may be enlarged on bail.

4. Learned Public Prosecutor has opposed the release of the petitioners on bail at this stage on the ground that 7 Gms. of contraband *smack* has been recovered in this matter. He thus, craves rejection of the petitioner's bail applications.

5. This Court has carefully perused the record as well as considered the submissions made by learned counsels for the parties.

6. On perusal of the record and upon consideration of the submissions, it would be *prima facie* clear that the recovered contraband weighs below the commercial quantity therefore, recording of finding envisaged under Section 37 of the Act is not a *sine qua non* for granting bail. The trial of the case will take sufficient time to conclude. As per facts of the FIR, petitioners are in custody since 27.08.2024.



7. Having considered the material available on record and the fact that trial is likely to take its own considerable time and taking note of all these aspects I do not intend to go into the merits of the matter but of the considered view that the rigor of Section 37 of the N.D.P.S. act is duly satisfied, forasmuch this court feels that the applicants have available to them substantial grounds so as to question the prosecution case and no useful purpose would be served by keeping the applicants in detention for an indefinite period therefore, I am inclined to grant indulgence of bail to the petitioners at this stage.

8. Consequently, the present bail applications are allowed and it is directed that the accused-petitioner 1. **Kamal Kishore S/o Shri Sita Ram** and 2. **Laxminarayan S/o Shri Shrawan Ram**, arrested in connection with the F.I.R. No.143/2024 of Police Station Thanwla District Nagaur shall be released on bail provided they furnish a personal bond and two surety bonds of sufficient amount to the satisfaction of the learned trial court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so. This order is subject to the condition that accused, within 7 days of their release, and sureties on the day of furnishing bail, will also furnish details of their all bank accounts, with bank and branch name, in shape of an affidavit, and submit legible copy of their Aadhar cards as well as copy of front page of Bank pass book, for smooth recovery of penalty amount, if there arise a need for recovery of penalty under Section 446 Cr.P.C in future.



9. Before parting with the case, this Court would like to express its grave concern regarding the casual manner in which the bail rejection order was passed by the trial court, particularly by a court presided over by a senior rank officer with considerable experience. Neither the date of the incident nor the date of arrest of the accused has been mentioned in the order. The date of arrest of accused is an integral and crucial part of a bail order but the Presiding Officer did not consider it appropriate to mention it in the order rejecting the bail. This omission is significant oversight. Consideration of this important aspect has remained incomplete. Its accurate mentioning is necessary to uphold legal precision. This lapse results in the order lacking the requisite judicial rigor and depth, and falling short of acceptable standards.

10. This issue is not limited to the present case alone but is commonly observed in a large number of orders produced before this Court.

11. Therefore, Registrar General of this Court is directed to place a copy of this order before Hon'ble the Chief Justice for issuing requisite circular in this regard, if deemed appropriate.

12. Disposed of accordingly.

(RAJENDRA PRAKASH SONI),J

90-91-Anshul/-