

(2023) 11 RAJ CK 0082**Rajasthan High Court****Case No:** Criminal Miscellaneous IIInd Bail Application No. 2315 Of 2023

Satindra Singh

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision: Nov. 21, 2023**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 439
- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 8, 15, 29

Hon'ble Judges: Farjand Ali, J**Bench:** Single Bench**Advocate:** B.Ray Bishnoi, S.K. Mehar**Final Decision:** Allowed**Judgement**

Farjand Ali, J

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 439 Cr.P.C. at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No	Particulars of the Case		
1	FIR Number		122/2020
2	Concerned Police Station		Dudhwakhara
3	District		Churu
4	Offences alleged in the FIR		Section 8/15 and 29 of the NDPS Act
5	Offences added, if any		--
6	Date of passing of impugned order		30.01.2023

2. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against him and his incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the accused-petitioner and he has been made an accused based on conjectures and surmises. The co-accused Jitendra Singh S/o Shri Manmohan Singh has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 08.11.2023 in

3. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.

4. I have considered the submissions made by both the parties and have perused the material available on record. It is not disputed that the similarly situated co-accused Jitendra Singh has already been enlarged on bail by a Co-ordinate Bench of this Court vide order dated 08.11.2023, which is quoted as under:

"1. The present bail application has been filed by the applicant under Section 439 of the Cr.P.C. in connection with FIR No.122/2020, registered at Police Station Dudhwakhara, District Churu for the offences under sections 8/15 & 29 of the NDPS Act.

2. Learned counsel for the applicant submitted that the applicant is behind the bars since 03.12.2020 and the trial is proceeding at snail's pace.

3. Learned counsel submitted that out of 20 witnesses, only 13 witnesses have been examined so far and from last one year witnesses are not turning up, in spite of the fact that the trial Court has issued bailable warrant for securing their presence.

4. Learned counsel for the applicant argued that the applicant is entitled to be enlarged on bail on the basis of the principles laid down by Hon'ble the Supreme Court in the cases of Rabi Prakash vs. The State of Odisha : Special Leave to Appeal (Crl.) No. 4169/2023 and Mohd. Muslim @ Hussain vs. State (NCT of Delhi) reported in 2023 SCC Online SC 352.

5. Learned Public Prosecutor was not in a position to dispute the aforesaid position; he however submitted that simply because the trial is not proceeding at the desired pace, the applicant who is accused of committing offences under NDPS Act cannot be enlarged on bail solely on the ground of delay in trial.

6. Heard learned counsel for the parties. Upon perusal of the proceedings of the trial Court submitted along with the present bail application, this Court is satisfied that the petitioner is not in any manner responsible for the protraction of the proceedings of the trial Court; despite its best endeavours the trial Court is not in a position to record statement of the prosecution witnesses.

7. No other case of like nature is pending against the present applicant.

8. In view of the aforesaid and considering the law laid down by Hon'ble the Supreme Court in the cases of Rabi Prakash vs. The State of Odisha : Special Leave to Appeal (Crl.) No. 4169/2023 and Mohd. Muslim @ Hussain vs. State (NCT of Delhi) reported in 2023 SCC Online SC 352, this Court is persuaded to enlarge the present applicant on bail.

9. The present bail application is allowed. It is ordered that applicant Jitendra Singh S/o Manmohan Singh arrested in connection with FIR No.122/2020, registered at Police Station Dudhwakhara, District Churu shall be released on bail on his furnishing personal bond in the sum of Rs.1,00,000/- and two sureties of Rs.50,000/- each to the satisfaction of the learned trial Court.

10. Applicant shall be required to appear before the trial Court on all dates of hearing and as and when called upon to do so.

11. Needless to mention that the above observations made by this Court are on the basis of material so far produced before the Court. These are only *prima-facie*

observations and the same shall, however, not come in the way of the trial Court to take an independent view of the matter, based on ocular and oral evidence, while finally deciding the case."

5. In view of the above and with a view to maintain judicial discipline, consistency and on the ground of parity and on the ground that the trial would still take a long time to conclude, it is deemed suitable to grant the benefit of bail to the petitioner in the present matter.

6. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so.