

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 9073/2024

Aasu Ram S/o Ladhu Ram, Aged About 36 Years, R/o Jato Ka Was, Bhojakor, Police Station Lohawat, Dist. Phalodi. (Presently Lodged In Sub Jail, Balotra)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Shiv Kumar Bhati
For Respondent(s)	:	Mr. Lalit Kishore Sen, PP with Mr. Ravindra Singh

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

Reportable

28/08/2024

1. The applicant is under arrested in connection with crime registered pursuant to F.I.R. Number 590/2022 of Police Station Balotra District Balotra in respect of offence punishable under section(s) 8/18, 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short "The Act"). He has approached this Court by way of this application for bail under Section 439 Cr.P.C.
2. It is a case where on 15.12.2022, co-accused namely Sohan Lal was apprehended on spot carrying opium in a vehicle Scorpion make, bearing registration No.RJ-04-UB-1444. The petitioner is owner of this vehicle and he is sought to be made liable for the offence punishable under section 25 of the Act.

3. Learned counsel for the petitioner has submitted that in absence of petitioner, his vehicle was misused by the driver and someone else for the purpose of carrying the contraband item. The applicant was not present at the scene of the incident on the day it occurred; rather, he was admitted to the Government Community Health Center, in Kalyanpur between the 14.12.2022 and 16.12.2022 due to dengue and then between the 17.12.2022 and 22.12.2022, he was admitted to a hospital in Ahmedabad. He drew the court's attention to the medical documents presented in support of these facts and argued that he is being falsely implicated by the police. He has further submitted that there is nothing on the record to suggest that the petitioner had permitted the use of his vehicle for the commission of an offence under the Act. The use of his vehicle by the Sohan Lal and other persons were not within the knowledge of the petitioner. Concluding submissions, he asserted that petitioner is entitled to be enlarged on bail.

4. Learned Public Prosecutor for the State submitted that contraband recovered from the vehicle owned by the applicant falls within the ambit of commercial quantity and the bar as contained in Section 37 of the NDPS Act is attracted. Petitioner is owner of vehicle in question. It is further argued that there is overwhelming evidence adduced on record suggestive of the fact that bail petitioner indulges in illegal trade of narcotics; that the petitioner does not deserve any sympathy as the petitioner is a drug peddler. He thus, craves rejection of the applicants' bail application.

5. I have given my anxious consideration to the rival submissions with reference to material placed before me.

6. On perusal of the record and upon consideration of the submissions, it would be clear that petitioner was not arrested from the spot along with the contraband. He is not even the registered owner of the vehicle and is being implicated in this case on the basis of a purchase agreement of vehicle in question. Contention of the petitioner that the driver was transporting the contraband without his knowledge, permission or consent will be a serious debatable issue during the course of trial. At this stage, there there is nothing on the record to suggest that the petitioner had permitted the use of his vehicle for the commission of an offence under the Act; therefore, use of his vehicle by principal accused persons was prima facie not within the knowledge of the petitioner. On the basis of medical record produced, priam facie, he appears to be suffering from dengue and was admitted to hospital elsewhere in the days before and after the incident.

7. Having considered the material available on record; the arguments advanced by counsel for the applicant particularly the facts narrated above and the fact that bail rejection order goes to show that applicant is not involved in any other case under the N.D.P.S. Act; that trial is likely to take its own considerable time and taking note of all these aspects I do not intent 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 applicant has available to him substantial grounds so as to question the prosecution case and no useful

purpose would be served by keeping the applicant in detention for an indefinite period therefore, I am inclined to grant indulgence of bail to the petitioner at this stage.

8. Consequently, the present bail application is allowed and it is directed that the accused-petitioner **Aasu Ram S/o Ladhu Ram**, arrested in connection with the F.I.R. No.590/2022 of Police Station Balotra District Balotra shall be released on bail provided he furnishes 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 his 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.

(RAJENDRA PRAKASH SONI),J