



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



S.B. Criminal Misc. Third Bail Application No. 7154/2026
CNR: RJHC020432622026 | URN: CRLMB / 12997U / 2026

Nawal Kishor Kumawat S/o Goverdhan Lal Kumawat, Aged About 36 Years, Presently Resident Of Plot No. 57, Nirnjan Vihar-2, Bindhyaka, Jaipur (Raj.) (At Present Confined In Central Jail, Jaipur)

-----Petitioner

Versus

The Narcotics Control Bureau, Through Its Standing Counsel.

-----Respondent

For Petitioner(s) : Mr. Rajeev Sogarwal
For Respondent(s) : Mr. Tej Prakash Sharma, Spl. PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

- 1. Date of conclusion of arguments : 28.09.2026**
2. Date on which the judgment was reserved : 28.09.2026
3. Whether the full judgment or only the operative part is pronounced : Full Judgment
4. Date of pronouncement : 15.10.2026

1. This third bail application under Section 483 BNSS has been filed on behalf of the petitioner, who has been arrested in connection with case No.VIII(IO)02/NCB/JPZU/2025 registered by NCB, Jaipur (Zonal Unit Jaipur) for offence punishable under Section 8/22(c) of the NDPS Act.
2. The first bail application filed on behalf of the petitioner was dismissed as withdrawn by this Court vide order dated 24.02.2025 while giving liberty to renew the prayer for bail after submission of



result of investigation. Thereafter, second bail application was filed on behalf of the petitioner however, the same was also dismissed as withdrawn by this Court vide order dated 29.08.2025 while giving liberty to renew the prayer for bail after recording testimony of the Seizure Officer. Now, seizure officer has been examined during the course of trial thus, this third bail application has been filed on behalf of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. It is submitted that the petitioner is owner of M/s Agarwal Medical and General Store and he has requisite license to sell, stock or exhibit or offer to sale or distribute by retail the drugs specified in schedules C and C(1) to the Drugs and Cosmetics Rules 1945.

4. As per the case set up against the petitioner, it is alleged that tablets containing ingredients such as Tramadol, Chlordiaz Epoxide, Lorazepam, Clobazam, Etizolam, Clonazepam, Alprazolam and Nitrazepam, were recovered from the medical shop of the petitioner for which no proper documents or bills were available. It is alleged that the petitioner failed to produce the requisite bills of sale and purchase of the medicines, as well as any records pertaining to their transportation. Counsel submits that the petitioner is running a medical shop as per the terms and conditions of the license issued by the competent authority and he has not flouted any of the conditions. It is submitted that no case is made out against the petitioner and even if the entire prosecution case is accepted to be true even then, the case would



not travel to beyond offence punishable under Section 8/26 of the NDPS Act for which maximum punishment is three years.

5. Counsel further submits that there are several other lapses on the part of the prosecution which cast doubt on the veracity of the case. It is submitted that the total weight of the tablets was not measured, rather, the weight of a single strip was taken as a basis for calculating the total weight of the tablets allegedly recovered. It is further submitted that the Seizure Officer admitted that he had not been searched by the independent witnesses. Moreover, only one independent witness was associated with the seizure proceedings, whereas the other witness was a member of the police party, which further raises question regarding the fairness, transparency and credibility of the alleged seizure proceedings. Counsel submits that association of the independent witnesses contemplated under Section 103 of the BNSS (Corresponding to Section 100 of 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. It is submitted that there is no criminal antecedent against the petitioner and trial is likely to take considerable time in its conclusion. The petitioner is in custody since 21.01.2025 and further custody of the petitioner would not serve any fruitful purpose. Counsel has relied upon the order





dated 25.02.2025 passed by this Court in S.B. Criminal Misc. Bail Application No.7770/2024, wherein, on identical facts, benefit of bail was granted.

6. Per contra, learned Special Public Prosecutor appearing for NCB opposes the submissions advanced on behalf of the petitioner. He submits that the petitioner failed to maintain the record of sale and purchase of the medicines (drug) of NDPS substance. It has come on record during the course of investigation that the batch numbers of certain medicines, as mentioned in the purchase bills produced by the petitioner, do not correspond with the batch numbers of the medicines in question. Furthermore, in respect of certain other medicines, the petitioner has failed to produce the corresponding purchase bills. Counsel further submits that upon finding violations of the conditions of the license, the Department proceeded to cancel the same. Counsel thus, prays that looking to the rigour of Section 37 of the NDPS Act, benefit of bail may not be extended to the petitioner.

7. I have considered the rival contentions advanced by learned counsel for the parties and perused the material available on record.

8. It is settled that 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.

9. The petitioner has been in custody for more than twenty months. There appears no likelihood of early conclusion of trial.

The Hon'ble Supreme Court, in numerous cases, has granted bail to accused persons, taking into consideration the prolonged period of incarceration undergone by them. The petitioner has remained in custody for a considerable period and continued incarceration, in the absence of a timely conclusion of the trial, violates the fundamental right to a speedy trial guaranteed under Article 21 of the Constitution of India. Prolonged incarceration generally militates against the cherished right to personal liberty, and in such a situation, conditional liberty must override the statutory embargo under Section 37 of the NDPS Act as held by the Hon'ble Supreme Court in series of cases.

10. Having regard to the totality of facts and circumstances, argument advanced by the counsel for the petitioner as noted above, especially considering the material available on record, as also considering the statement of the seizure officer, and trial is likely to 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 just and proper to allow the third bail application.

11. This third bail application is accordingly allowed and it is directed that accused-petitioner- **Nawal Kishor Kumawat S/o Goverdhan Lal Kumawat**, shall be released on bail provided he



furnishes a personal bond in the sum of Rs.5,00,000/- (Rupees Five Lakh Only) together with two sureties in the sum of Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only), out of which, one surety must be furnished by the close family member of the petitioner, 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.

12. It is made clear that the accused-petitioner shall not involve in any other offence(s) during currency of the bail and he shall mark his presence at the concerned police station in the first week of every month, till trial is concluded.

13. 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.

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

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

16. 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

/Manoj Solanki