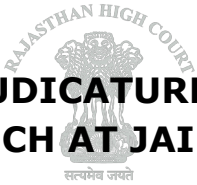




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous Second Bail Application No.
3245/2025

Parul Begam W/o Shekh Farid, R/o Andar Kot, Badbav,
Nearakbari Masjid, Ama Bawdi, Dargah, Ajmer. (At Present
Confined In Central Jail, Ajmer).

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

Connected With

S.B. Criminal Miscellaneous Second Bail Application No.
3246/2025

Yazuddin Sheikh S/o Muzamil Shaikh, Aged About 22 Years, R/o
Gram Vada Naldah, Post Chota Naldah, Police Station Palasibada,
District Nadia, West Bengal. (At Presently Confined In Central
Jail Ajmer).

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Shantnu Bansal Mr. Saurabh Vaishnav Mr. Dharampal
For Respondent(s)	:	Ms Arti Sharma, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

05/03/2025

1. These instant second bail applications have been filed under
Section 483 of BNSS on behalf of the petitioners, who have been
arrested in connection with FIR No.61/2024 registered at Police
Station Clock Tower, District Ajmer (Raj.) for the offence



punishable under Section 8/20 of NDPS Act. Later on, police filed charge-sheet in this matter.

2. First bail applications of the petitioners were dismissed as withdrawn with liberty to renew the prayer of bail after recording the testimony of Seizure Officer. Now, Seizure Officer of this case has been examined as PW-1 during the course of trial. Thus, these second bail applications have been preferred on behalf of the petitioners.

3. It is contended by learned counsel for the petitioners that the accused-petitioners have falsely been implicated in this case. Counsel submits that petitioner 'P' was found in possession of 10 kgs and 350 gms Ganja and petitioner 'Y' was found in possession of 8 kgs and 250 gms Ganja. It is submitted that three other persons were also found in possession of Ganja bearing 8.280, 8.250 & 10.392 kgs respectively. Counsel submit that all the accused persons were found in possession of separate quantity of contraband therefore, it is not appropriate to club the entire quantity to bring the quantity of contraband in the category of commercial quantity. Counsel submit that this issue was considered by co-ordinate Bench of this Court in the case of **Akhilak @ Vilasan & Anr. Vs. State of Rajasthan** reported in **2010(2) Cr.L.R. (Raj.) 1542** wherein it was held that if two persons are carrying separate quantity then same cannot be clubbed. Counsel submit that it appears from testimony of Seizure Officer that separate recovery was made from each accused and all were found at public place. Relying upon the judgment passed by Hon'ble Apex Court in case of **Mallikarjun Vs. The State of**



Karnataka arising out of Special Leave to Appeal (Crl.) No(s).3341/2023 wherein in identical circumstances, benefit of bail was granted to the accused by considering the arguments of the counsel and it was observed that *"since it is a case of two accused carrying two separate bags containing different quantity of contraband, clubbing of the total contraband in the two bags was not at all justified as that would bring the quantity of contraband to commercial quantity category and it will be prejudicial to the accused. Moreover, if individual bags are taken into account, the contraband would be below the commercial quantity"*. Counsel submits that there are no criminal antecedents against the petitioners of similar nature. Petitioners are in custody since 20.03.2024 and further custody of the petitioners would not serve any fruitful purpose.

4. Learned Public Prosecutor opposes the submissions made by learned counsel for the petitioners. She submits that it is true that all the accused persons were carrying separate bags of contraband and thus, individual quantity recovered from them is below commercial quantity but if the same is clubbed, it would come within the definition of commercial quantity.

5. I have considered the contentions.

6. Having regard to the totality of the facts and circumstances of the case; considering the arguments advanced by learned counsel for the petitioners, material made available on record in the form of charge-sheet including testimony of Seizure Officer so also considering the observations made by co-ordinate Bench of this Court in **Akhilak @ Vilasan & Anr.** (Supra); absence of



criminal antecedents against the petitioners of similar nature as well as looking to the custody period, but without commenting anything on the merits/demerits of the case, I deem it proper to allow these second bail applications.

7. These second bail applications are accordingly allowed and it is directed that accused-petitioners –(1) **Parul Begam W/o Shekh Farid** and (2) **Yazuddin Sheikh S/o Muzamil Shaikh** shall be released on bail provided, each of them furnishes a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) together with two sureties in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each to the satisfaction of the learned trial Court with the stipulation that they 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.

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

9. Concerned SHO is directed to maintain a register recording the attendance of the petitioners, as directed above. In case the petitioners fail to mark their 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.

10. 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 them by this Court.

11. The observation made herein above is only for decision of these instant bail applications and would not have any impact on the trial of the case in any manner.



(ANIL KUMAR UPMAN),J

LALIT MOHAN /317 & 319