RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous 2nd Bail Application No. 11971/2026
CNR: RJHC020723242026 | URN: CRLMB / 22042U / 2026

Rajasthan High Court
सत्यमेव जयते
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Sitaram Alias Udham Meena S/o Madan Lal, Aged About 40 Years, R/o Khadia, Police Station Harnavdashahji, District Baran (Rajasthan) (At Present Confined In District Jail, Baran).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Ms. Swati Sharma
For Respondent(s) : Ms. Aarti Sharma, PP

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

25/09/2026

1. Petitioner has filed this second bail application under Section 483 B.N.S.S., arising out of F.I.R. No. 94/2025, registered with the Police Station Harnavda Shahji, Distt. Baran for offence under Sections 8, 15 and 25 of NDPS Act.

2. Heard and considered the submissions made the learned counsel for the accused-petitioner as well as learned Public Prosecutor and also perused the material available on record.

3. The first bail application of the petitioner was dismissed as withdrawn by this Court vide order dated 08.05.2026.

4. Learned counsel for the petitioner submits that as per the contents of the FIR, the alleged contraband i.e. Dodha Chura was said to have been recovered from the possession of the accused-petitioner contained in five bags and total weight of the alleged

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contraband was said to be 79.400 Kg.

5. Learned counsel further submits that while preparing the inventory report by the Judicial Officer, two samples were taken from only one packet marked as 'C' and no samples were taken from other four packets for sending the same to the FSL for examination, so as to ascertain whether it is contraband or not?

6. Learned counsel for the petitioner submits that the material which was in the packet marked as 'C', from where the only samples were taken, can only be treated to be alleged contraband. She further submits that the weight of the material recovered from the bag marked as-C is only 19.80 Kg, which is less than commercial quantity and therefore, provisions of Section 37 of the NDPS Act is not attracted in this case.

7. Learned counsel for the petitioner has also relied upon order dated 20.04.2026 passed by this Court in case of ***Hariram Vs State of Rajasthan, (S.B. Criminal Miscellaneous Bail Application No. 741/2026).***

8. Learned Public Prosecutor has vehementaly opposed this second bail application and states that samples were taken only from one bag as the material in other bags were seemed to be same/similar. She further submits that since total weight of the alleged contraband, involved in the present case, is above than the commercial quantity and, therefore, provisions of Section 37 of the NDPS Act will be attracted.

9. As per the facts on record, the alleged contraband said to

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have been recovered from the possession of the accused-petitioner on 31.05.2025, was packed in five bags marked as A, B, C, D & E.

10. As per the invertory report and certificate issued by the Additional Chief Judicial Magistrate No.2, Chhabra, Baran on 06.06.2025, only two samples marked as F & G were taken from bag marked as-C. No sample was taken from other bags which were marked as A, B, D & E. In such circumstances, the material which has been found to be in bag marked as-C can only be treated to be alleged contraband and the weight of that bag is 19.80 Kg which is less than commercial quantity.

11. This Court in case of ***Hariram (supra)*** observed as under:-

> "5. As per the averments made in the F.I.R., the petitioner was found with six bags, which were said to be containing the contraband- Doda Chura. As per the inventory report prepared by the Police, bag Marka 'A' contains 20.200 kg Doda Chura, bag Marka 'B' contains 21.300 kg Doda Chura, bag Marka 'C' contains 25.200 kg Doda Chura, bag Marka 'D' contains 25.200 kg Doda Chura, bag Marka 'E' contains 25.200 kg Doda Chura and bag Marka 'E' contains 25.200 kg Doda Chura. As per the inventory report, the samples were taken only from the bags Marka 'A' and 'E' and total weight of both the bags is 45.400 kg Doda Chura. The samples were taken only from two bags and were sent for the FSL report.
>
> The alleged contraband in bags Marka 'A' and 'E' is 45.400 kg Doda Chura, which is less than the commercial quantity. Since no sample was taken or sent for FSL from other four bags, then that cannot be held to be the contraband in absence of any FSL report. There is nothing on record that the police has taken the samples after mixing the total material. In absence of the samples from other four bags, out of total six bags, the material recovered from two bags, can only be treated to be the contraband. The FSL report is only in regard to those two bags Marka 'A' and 'E' and the total weight of both the

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bags is 45.400 kg Doda Chura, which is less than the commercial quantity. The petitioner is in custody since 11.01.2025, i.e., more than one year.

6. The Hon'ble Apex Court in the case of ***Puranmal Jat Vs. State of Rajasthan*** in ***Criminal Appeal No.3394/2023 arising out of SLP (Crl.) No.10670/2023*** decided on ***02.11.2023*** has enlarged the accused therein on bail and observed as under:-

> "The allegations against the appellant relate to commission of offence under the provisions of Sections 8 and 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called "the Act"). Alleged recovery from him is about 35 kgs. and 150 grams Doda Posh (Poppy straw). The commercial quantity for poppy straw is 50 kgs. The appellant is in custody for over seven months. Charge-sheet has been submitted in the case. The recovered contraband item having weight less than the stipulated commercial quantity, the restriction on grant of bail under Section 37 of the Act does not apply in his case. We do not think his continued detention pending trial is necessary in the given circumstances."

12. The petitioner is said to be in custody since 31.05.2025 and his custody period is more than one year.

13. Having regard to the submissions and the discussions made above, this Court, without expressing any opinion on the merits and demerits of the case, deems just and proper to enlarge the accused-petitioner on bail.

14. Accordingly, this 2nd bail application is allowed and it is directed that accused-petitioner shall be released on bail provided that he furnishes a personal bond in the sum of Rs. 1,00,000/- (Rupees One Lac Only), together with two sureties in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) to the satisfaction of the Trial Court with the stipulation that he shall appear before that

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Court or any Court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

15. In case the accused-petitioner is found to be involved in any other criminal case of similar nature in future, the prosecution may move application for cancellation of his bail.

(GANESH RAM MEENA),J

2/RAVINDRA

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