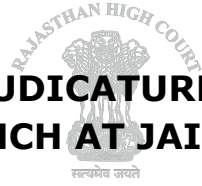




**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



**S.B. Criminal Misc. 2<sup>nd</sup> Bail Application No. 12083/2024**

Banwari Lal Kushwah S/o Shri Madho Singh Kushwah, R/o Jamalpur, Shastnagar, P.s. Kolari, District Dholpur. (That The Accused Petitioner Is Currently Confined At Central Bharatpur In Judicial Custody Since 13.06.2022)

----Petitioner

Versus

State of Rajasthan, through PP

----Respondent

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For Petitioner(s) : Mr. Rajeev Surana, Sr. Adv. with  
Ms. Muskan Verma,  
Mr. Anuj Rohila &  
Mr. Umang Jain

For Respondent(s) : Mr. Amit Punia, PP

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**HON'BLE MR. JUSTICE GANESH RAM MEENA**

**Order**

**04/11/2024**

1. This second bail application has been filed by the accused-petitioner under Section 483 B.N.S.S., in connection with F.I.R. No.17/2017, registered at Police Station Mathura Gate, District Bharatpur for the offences punishable under Sections 420, 406 & 120B of IPC.
2. The first bail application No. 8560/2024 was disposed of by this Court vide order dated 10.09.2024 with liberty to the petitioner to move an appropriate application for releasing on bail in view of the provisions of Section 437(6) of Cr.P.C. before the Court concerned.
3. Learned Senior Advocate Mr. Rajeev Surana appearing for the petitioner submits that the accused-petitioner filed an



application for releasing him on bail in view of the provisions of Section 480(6) & 480 of BNSS, 2023 before the Court of learned Chief Judicial Magistrate No. 2, Bharatpur, under the provisions relating to the repealed provisions of Section 437(6) Cr.P.C.

4. The said bail application was dismissed by the concerned Magistrate vide order dated 20.09.2024 in view of the apprehension that the accused-petitioner may influence the prosecution witnesses. Learned Senior counsel further submits that the charges for the offences punishable under Sections 420, 406 & 120B of IPC were framed by the trial Court on 31.05.2024 against the accused-petitioner and the first date was fixed for recording of the evidence of the prosecution witnesses as 14.06.2024 certain prosecution witnesses were summoned on the aforementioned date. Learned Senior Counsel further submits that out of total 33 prosecution witnesses only one witness has been examined so far. Learned Senior counsel further submits that in view of the provisions of Section 480(6) of BNSS, the accused-petitioner is entitled to be released on bail. Counsel also submits that the accused-petitioner is in custody since 13.06.2022 and he has already suffered more than one-third of the sentence out of the maximum sentence provided for the alleged offences for which he has been charged, which is seven years. Learned Senior counsel also submits that even on the merits, the accused-petitioner has a fit case to be released on bail.

5. Learned Public Prosecutor vehemently opposed the second bail application and submits that trial could not be concluded within a period of 60 days from the first date fixed for recording



the evidence because certain applications were filed by the prosecution witnesses which came to be decided at later stage.

6. Considered the submissions made at Bar and also perused the challan papers as well as the other relevant material available on record.

7. Section 480(6) of the B.N.S.S. speaks that a person shall be released on bail if trial of the non-bailable offences are triable by the Magistrate and the trial is not concluded from the first date fixed for evidence in the case and if such person is in custody during the said period, be released on bail.

8. Section 480(6) of B.N.S.S. is quoted as under:-

*"If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reason to be recorded in writing, the Magistrate otherwise directs."*

9. In the present case, as is evident from the order of the trial Court, the charges for offences punishable under Sections 420, 406 & 120B of IPC were framed on 31.05.2024 and same are triable by the Magistrate. The first date for recording evidence was fixed on 14.06.2024 and 60 days completed soon on 13.08.2024.

10. As mentioned in the provisions of Section 480(6) of BNSS, 60 days completed soon on 13.08.2024, the accused-petitioner is in custody for more than two years i.e. from 13.06.2022 and by that time only one prosecution witness out of total 33 prosecution witnesses has been examined so far and more particularly when the provisions of Section 480(6) of BNSS provides for release of a



person on bail in such circumstances, this Court feels that the accused cannot be continued in custody for an indefinite period and that too for no fault on his bail in conclusion of the trial as per the mandate of Section 480(6) of BNSS, this Court deems just and proper to enlarge the accused-petitioner on bail without making any comments on the merits of the case.

11. Accordingly, this second bail application is, allowed and it is directed that accused-petitioner shall be released on bail provided 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) each to the satisfaction of the trial Court with the stipulation that he shall appear before that Court or any other Court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

**(GANESH RAM MEENA),J**

DIVYA SAINI /19