



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

**S.B. Criminal Misc. Bail Application No. 1605/2024**

Koushala Ram S/o Kherajram, aged about 28 years, resident of Bhojasar, Police Station Baytu, District Barmer.

(Presently Lodged In District Jail, Barmer).

----Petitioner

Versus

State Of Rajasthan through PP

----Respondent

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For Petitioner(s) : Mr. Neeraj Kumar Gurjar.  
For Respondent(s) : Mr. Vineet Jain, Sr. Advocate, Special  
PP assisted by Mr. Arun Kumar, PP.  
Mr. Subhash Chandra, Additional  
Superintendent of Police, CID-CB,  
Jodhpur.

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**HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI**

**Order**

**REPORTABLE**

**15/07/2024**

1. The applicant is under arrest in connection with crime registered pursuant to F.I.R. Number 151/2023 of Police Station Gida, District Barmer, in respect of offences punishable under Sections 353, 332 and 307/34 of the Indian Penal Code, Section 3/25(6) of the Arms Act, Section 3 of the PDPP Act and Section 8/15 of the NDPS Act. He has approached this Court by way of this application for bail under Section 439 Cr.P.C.

2. Before I proceed to examine rival contentions in connection with question of bail, it would be appropriate to briefly state the facts of the present case which are that on July 6, 2023, a special



police team was formed to apprehend wanted criminals. They were tracked based on the location of mobile number **8949476623**. When the team reached the road from Holani to Chibi in the Baytu police station area, at 2:55 PM they saw a Scorpio vehicle without a number plate standing on the road. Near the vehicle, two persons were standing, whom the police team identified as wanted criminals Om Prakash and applicant Kaushala Ram. The police team stopped their vehicle and called out to criminals to surrender and instructed commandos to barricade themselves. When the commandos began to surround them, the two criminals picked up their pistols from their vehicle and started firing indiscriminately at the police team with the intention of killing them. The bullets fired by the criminals hit the police vehicle and commando Gopal Ram, who was wearing a bulletproof jacket. Thereafter, both criminals started fleeing in their vehicle, continuing to fire at the police team with their hands behind their backs. The commando team fired at tires of the criminals' vehicle, causing it to stop. The police team approached the vehicle, apprehended both criminals and noticed that blood was flowing inside the vehicle and both criminals were injured. The injured criminals were sent to the hospital and a report of the incident was submitted.

3. To begin at the beginning Shri Neeraj Kumar Gurjar, learned counsel representing applicant has fervently argued that so called accused Om Prakash died during the incident due to police firing. The police fired indiscriminately using their powers uncontrollably,



resulting in Om Prakash's death on the spot, while no police personnel were injured and there were no casualties among the police team members. In this case, alleged recovery of weapons from the vehicle of the accused is false and fabricated. In fact, applicant did not possess any weapons and was unarmed, which is why no policemen were injured in the incident. It is further argued that bullet marks can be made on bulletproof jackets at any time and there is no direct evidence on record to prove that those were marks of firing by accused during present incident. The police implanted 332 grams of poppy straw in the vehicle to make the case more serious. If there had actually been poppy straw in the vehicle at the time of the incident, this fact would have been mentioned in the F.I.R. itself submitted by Sub-Inspector Lakha Ram himself however, this fact has been allegedly found proved in the investigation. Charge sheet has already been filed after investigation. The applicant has been in custody for more than a year and there has been no progress in the trial of the case. Concluding submissions, he asserted that applicant is entitled to be enlarged on bail.

4. On the other hand, Shri Vineet Jain, Sr. Advocate and learned Special Public Prosecutor assisted by Mr. Arun Kumar, Public Prosecutor while objecting the different submissions made by learned counsel for the applicant, would strongly submit that the policemen survived this incident because they were wearing bulletproof jackets. The intention of both criminals was definitely attempt to commit murder of members of police team, which is



why they fired repeatedly. During the incident, the police vehicle was also damaged and the weapons of the accused were recovered from their vehicle itself. Applicant accused is a habitual criminal with a large number of cases pending against him. Keeping in view the gravity of offences alleged to have been committed by petitioner, he does not deserve any leniency rather he needs to be dealt with severely. He thus, craves rejection of the applicants' bail application.

5. I have considered the rival submissions of learned counsel for the applicant as well as learned public prosecutor and perused the record.

6. A perusal of the evidence available on record would prima facie show that after investigation, chargesheet has already been filed in this case. During the incident, there were no casualties or injuries to any policemen. On the contrary, the applicant himself was injured in this incident and his alleged companion Om Prakash died due to police firing. At the time of the incident, the police team had inspected the accused's vehicle. Scattered blood and the accused's weapons were found by the police however, the fact of scattered poppy straw in the vehicle was not mentioned in the First Information Report, which would have been a natural mention, if it was present. Quantity of *poppy-straw* is 332 Grams.

7. At this stage, taking note of all these aspects, I do not intend to go into the merits of the matter but having given anxious consideration to the rival submissions with reference to material placed before me and the fact that applicant is in custody since



the last 08.07.2023; forasmuch this Court feels that the applicant has available to him substantial grounds so as to question the prosecution case; that trial is likely to take its own considerable time 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 **Koushala Ram S/o Kherajram**, arrested in connection with the F.I.R. No. 151/2023, registered at Police Station Gida, District Barmer, 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**

Mohan/-