

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

S.B. Criminal Miscellaneous Bail Application No. 13082/2024

Muskan D/o Bunduddin Teli, Aged About 20 Years, R/o Madeena Colony, Jag Ji Ka Kheda Borawad, P.s. Makrana, Dist. Nagaur, Rajasthan. Presently R/o Dist. Deedwana-Kuchaman, Nagaur, Rajasthan. (Presently Lodged In Dist. Jail, Bhilwara)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : Mr. Jangsher Khan
For Respondent(s) : Mr. Ravindra Bhati, AGA
Mr. Rajesh Bhati, AGA

HON'BLE MR. JUSTICE FARJAND ALI**Order****22/10/2024**

1. The jurisdiction of this court has been invoked by way of filing an application under Section 439 CrPC at the instance of accused-petitioner. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	111/2024
2.	Concerned Police Station	Bijoliya
3.	District	Bhilwara
4.	Offences alleged in the FIR	Section 8/15 of the NDPS Act
5.	Offences added, if any	-
6.	Date of passing of impugned order	09.10.2024

2. The concise facts of the case as alleged in the FIR are that on 03.04.2024, Ganeshram, SHO, PS Biojoliya along with his team during investigation regarding another matter reached Singoli intercepted a Creta Car bearing registration No.RJ42 CA2552. Upon interrogation, the driver disclosed his name as Rajendra Jat and person sitting by his side disclosed her name as Muskan.



During search, 77 Kg poppy husk came to be recovered from the dickey of the vehicle. On the basis of the above, they were apprehended and a case under Section 8/15 got registered against them. Hence this bail application.

3. It is contended on behalf of the accused-petitioner that no case for the alleged offences is made out against her and her incarceration is not warranted. There are no factors at play in the case at hand that may work against grant of bail to the accused-petitioner and she has been made an accused based on conjectures and surmises.

4. Contrary to the submissions of learned counsel for the petitioner, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.

5. I have minutely heard and considered the submissions made by both the parties and have perused the material available on record.

6. Perusal of the record revealing that petitioner is an unmarried young lady and she was found in the car along with Rajendra Jat. When the car was searched by the police team, 77 Kg poppy husk came to be recovered from its dickey. Nowhere in the entire charge sheet, it has been mentioned by the police that the petitioner was also having knowledge regarding presence of poppy husk in the car rather it seems that she was friend of Rajendra Jat and at the time of recovery, she was found sitting with him in the capacity of his friend. The plea that the petitioner was not having exclusive and conscious possession of the



contraband cannot be ruled out particularly, at the stage when a bachelor girl is behind the bars.

7. After having gone through the entire charge sheet, it is observed that simply the petitioner was sitting in the car without having any nexus with the poppy husk. The investigation further revealing that the principal accused Rajendra Jat was in contact with one Mukesh Uncle (MP) having mobile No.7566691511.

8. The result of investigation as concluded by the agency revealing that the contraband was procured to Rajendra Jat by one Mukesh Dhakad and the same was supposed to be supplied to one Harendra Dara. One Ghanshyam Dhakad was providing assistance to Mukesh Dhakad who was instrumental in loading the alleged contraband in the vehicle in question, however, nowhere from the entire charge sheet it is revealing that either the petitioner was having any knowledge regarding presence of contraband in the Car or she was in contact with any of the accused persons named above. As on date, the plea raised on her behalf that while going somewhere, the accused Rajendra Jat asked the petitioner to accompany him and she joined his company just before the car was intercepted; cannot be ignored at this stage. The Seizure Memo further revealing that the contraband was lying in the bag which was kept in the dickey of the car and thus, the same strengthens the petitioner's case that she failed to notice presence of the contraband in the car when she accompanied the petitioner. In the given circumstances Section 37 of the NPDS Act does not apply in the present case.



9. Considering the overall facts and circumstances of the case and the fact the petitioner is a female for which which special provisions have been made under Section 437 Cr.P.C. In the case titled as **Sangeeta Vs. State of Rajasthan** in **S.B. Criminal Misc. Bail Application No.1102/2024** decided on **05.03.2024**, this Court has passed an order granting bail in relation to releasing a female on bail while considering the provision 437 Cr.P.C. Thus, looking to the high probability that the trial may take long time to conclude this Court deems suitable to grant the benefit of bail to the petitioner.

10. It is nigh well settled law that at a pre-conviction stage; bail is a rule and denial from the same should be an exception. The purpose behind keeping an accused behind the bars during trial would be to secure his/her presence on the day of conviction so that he/she may receive the sentence as would be awarded to her/him. Otherwise, it is the rule of Criminal Jurisprudence that he/she shall be presumed innocent until the guilt is proved.

7. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner as named in the cause title shall be enlarged on bail provided she furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for her appearance before the court concerned on all the dates of hearing as and when called upon to do so.

(FARJAND ALI),J

46-Mamta/-

