

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

S.B. Criminal Miscellaneous Second Bail Application No.
5033/2021

Shahbuddin Mansuri S/o Shri Buddhsen Mansuri, R/o Bamanpuri
Tehsil Shahbad Dist. Rampur U.P. At Present Confined In Central
Jail Jaipur

----Applicant

Versus

Narcotics Control Bureau, Through Standing Counsel

----Respondent

For Applicant(s) : Mr. Shantanu Singh, Adv.

For Respondent(s) : Mr. Tej Prakash Sharma

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

28/04/2023

1. Accused/applicant has filed this second bail application under Section 439 of Cr.P.C.
2. F.I.R. No.VIII (IO) 08/NCB/ JZU/2018 was registered at Narcotic Control Bureau Jodhpur for the offence under Sections 8/15, 8/29 of NDPS Act.
3. It is contended by counsel for the applicant that the applicant was the cleaner of the vehicle. He was handed over the vehicle at Itawa Road, Kanpur. Applicant was not aware of the fact that contraband was being transported in the vehicle. It is also contended that applicant has remained in custody for a period of four years and eleven months. Out of 12 witnesses, statement of only 5 witnesses have been recorded so far.
4. Counsel for the applicant has placed reliance on "**Abdul**

Majeed Lone Vs Union Territory of Jammu and Kashmir"

Petition for Special Leave to Appeal (Crl.) No.3961/2022 decided by the Apex Court on 01.08.2022, wherein considering the incarceration for a period of two years and five months, bail was granted to the accused. Reliance has also been placed on "**Amit Singh Moni Vs. State of Himachal Pradesh"** Criminal Appeal No. 668/2020, decided by the Apex Court on 12.10.2020, wherein bail was granted to the accused who had remained in custody for a period of two years and seven months. Reliance has also been placed on "**Tapan Das Vs. Union of India"** Petition for Special Leave to Appeal (Crl.) No.5617/2021, decided by the Apex Court on 07.10.2021, wherein the accused was granted bail who had remained in custody for a period of four years and there was no likelihood of completion of trial in near future.

5. Reliance has also been placed on **S.B. Criminal Misc. Fourth Bail Application No.15204/2020**, wherein this Court vide order dated 23.02.2021 has also granted bail to the accused who had remained in custody for a period of four years and wherein out of seventeen witnesses, only one witness had been examined.

6. Reliance has also been placed on **"Ghanshyam Sharma Vs. The State of Rajasthan"** Petition(s) for Special Leave to Appeal (Crl.) No(s).5397/2019, decided by the Apex Court on 10.01.2020, where at the stage of defence evidence, bail was granted to the accused.

7. Learned counsel appearing for NCB has vehemently opposed the second bail application. It is contended that there is

no delay on the part of the prosecuting agency. Commercial quantity of contraband has been recovered in this case.

8. I have considered the contentions.

9. Considering the contentions put forth by counsel for the applicant, also taking note of the fact that applicant was a cleaner of the vehicle; he has remained in custody for a period of four years and eleven months; he is not having any criminal antecedents of like nature; conclusion of trial is bound to take time and without commenting on merits of the case, I deem it proper to allow the second bail application.

10. This second bail application is accordingly allowed and it is directed that accused applicant shall be released on bail provided he furnishes a personal bond in the sum of Rs.5,00,000/- (Rupees Five Lac only) together with two sureties in the sum of Rs.2,50,000/- (Rupees Two Lac and Fifty Thousand only) each to the satisfaction of the learned trial court with the stipulation that he 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.

11. However, it is made clear that if the applicant repeats the offence, State would be free to move application for cancellation of bail before the concerned Court.

(PANKAJ BHANDARI),J

CHANDAN /2