

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR



S.B. Criminal Miscellaneous Second Bail Application No.
10003/2025

Ashish Bairwa S/o Jagdish Bairwa, Aged About 20 Years, R/o Mehandipur Balaji, Police Station Mehandipur Balaji, District Dausa, At Present Tenant Plot No. 12, Shriji Nagar, Rampura Road, Police Station Muhana, Jaipur. (At Present Petitioner Is Confined In Central Jail Jaipur).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Mr. Babu Lal Bairwa

For Respondent(s) : Mr. N.S. Dhakar, PP with
Mr. Gaurav Gupta, Asstt. G.A.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

O R D E R

DATE OF PRONOUNCEMENT:-

26/09/2025

1. This second bail application under Section 483 of BNSS has been filed on behalf of the petitioner, who has been arrested in connection with FIR No.724/2024 registered at Police Station Muhana, District Jaipur City (South) (Rajasthan) for the offence punishable under Section 140(2) of the Bharatiya Nyaya Sanhita, (in short 'BNS') 2023 and Sections 3(1)(r), 3(1)(s) & 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989 (Amendment 2015). After completion of investigation police filed charge-sheet in this matter for the offences punishable under Sections 140(2), 103(2), 115(2), 126(2), 127(2), 61(2)(a), 238(a), 190, 191(2), 191(3) &

103(1) of BNS and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989 (Amendment 2015).

2. The first bail application filed on behalf of the petitioner was dismissed as withdrawn by this court vide order dated 21.02.2025 while giving liberty to renew the prayer of bail after recording testimony of eyewitness Manish Kumar Bairwa. His testimonies have been recorded and thus this second bail has been preferred.

3. Learned counsel appearing for petitioner submits that petitioner has falsely been implicated in this matter. Counsel submits that during recording court testimony, PW.2 Manish Kumar Bairwa failed to identify the petitioner, which shows false implication of the petitioner in the present case. It is also argued that this witness in his cross-examination, clearly deposed that the petitioner, who was present in the trial court, has not committed any offence with him and he was not the actual assailant. The petitioner is in custody since 10.07.2024 and further custody of the petitioner would not serve any fruitful purpose. Trial will take long considerable time in its conclusion as only 3 witnesses have been examined out of 20 prosecution witnesses.

4. Learned State counsel assisted by the counsel for complainant vehemently opposed the submissions made by the counsel for the petitioner. It is submitted that there are allegations against the accused persons of commission of serious offences of abduction, extortion, and homicide, arising from a sequence of events that took place on and after 8th July, 2024. The case discloses a heinous episode wherein the accused, acting in

concert, abducted Nemichand and Manish Kumar for ransom and brutally gave beatings to them due to which, Nemichand died. It is also contended that PW.2 Manish Kumar Bairwa, who himself was the victim, in his court testimony clearly supported the prosecution case. He narrated the entire incident in his testimony. He argues that co-accused Ashish was apprehended at spot when police party was chasing them therefore non-identification of co-accused Ashish by the injured witness is of no consequence. It is also argued that recovery of weapon of offence and car used in the commission of crime have also been effected in pursuance of the information under Section 27 of the Evidence Act furnished by the petitioner. He argues that looking to the seriousness of allegations and gravity of offences, the accused petitioner does not deserve indulgence of bail.

5. I have heard both the parties and perused the material available on record.

6. As per the prosecution case on 08.07.2024, the accused persons, in furtherance of their common design, abducted Nemichand and Manish Bairwa with deliberate object of extorting money. After abduction of these two persons, the accused gave brutally beatings to them due to which, Nemichand died. The police recovered the dead body of Nemichand in a car, whilst Manish Bairwa was found in brutally beaten condition. The injured eyewitness PW.2 Manish Kumar Bairwa has fully supported the prosecution case and narrated the entire sequence of events. The accused petitioner was apprehended at the spot when police party was chasing them, therefore non-identification of co-accused

Ashish by the injured witness is of no avail. The mobiles belonging to the accused persons were seized. The photographs and video recordings recovered from the mobile of the co-accused Shambhu Dayal show that accused persons were assaulting both deceased and the injured. The trial is at initial stage and there are serious allegations against the accused petitioner and other accused persons of abduction, extortion and murder. Thus, in the totality of facts and circumstances of the present case and considering the arguments advanced by both the sides and looking to the seriousness of allegations and gravity of offences involved in the present case, but without making any comments on the merits/demerits of the case, I am not inclined to enlarge the petitioner on bail. Hence, this second bail application stands dismissed.

7. The observation made herein is only for the disposal of the instant bail application and would not prejudice trial in any manner.

(ANIL KUMAR UPMAN),J

LALIT MOHAN /32