HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 2782/2020

Suresh Kumar S/o Jagdish, Aged About 28 Years, By Caste Odh, R/o Lalpura Odan, Th. Suratgarh, District Sri Ganganagar. (At Present Lodged In Central Jail Bikaner).

----Petitioner

Versus

State, Through P.p.

----Respondent

RAJASTHAN HIGH COURT

Connected With

S.B. Criminal Miscellaneous Bail Application No. 2661/2020

Pradeep Kumar S/o Ramchandra Manda, Aged About 23 Years, R/o Mankasar Tehsil Kolayat Dist. Bikaner. (Presently Lodged At Central Jail, Bikaner).

----Petitioner

Versus

State, Through Pp

----Respondent

S.B. Criminal Miscellaneous Bail Application No. 8790/2020

Sampatlal Bhambhu S/o Fularam, Aged About 25 Years, B/c Vishnoi, R/o Village Godu Presently Dhani 08 Psd Rohi Fulasar Police Thana Bajju Tehsil Kolayat Dist. Bikaner. (Presently Lodged At Central Jail, Bikaner).

सत्यमेव जयते

----Petitioner

Versus

State, Through Pp

----Respondent

For Petitioner(s)	:	Mr. Shardul Bishnoi (through VC) Mr. B.R. Godara (through VC)
For Respondent(s)	:	Mr. Mukhtiyar Khan, PP

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

26/11/2020

Heard learned counsel for the petitioners as well as learned Public Prosecutor and also perused the material on record.

The petitioners have been arrested in FIR No.146/2018 of Police Station Chatargarh, Distt. Bikaner for the offences punishable under Sections 8/15, 8/25 and 8/29 of the NDPS Act. They have preferred these bail applications under Section 439 Cr.P.C.

Learned counsel for the petitioners has submitted that after rejection of the earlier bail applications of the petitioners, statements of the Seizure Officer namely Vikas (PW-1), the then S.H.O. of Police Station Chatargarh have been recored before the trial court wherein, he has stated that 9 bags containing poppy husk were seized (total 175 kgs 240 gms of poppy husk was recovered) and the Seizure Officer first mixed the said narcotic contraband and thereafter took two samples of 500 gms each from that mixture. Thus, it is clear that the Seizure Officer did not collect separate samples from each bag. It is also submitted that the I.O. has not stated that the test by the U.N. Kit was carried out on each bag before taking small quantity of poppy husk for samples.

Learned counsel for the petitioners while placing reliance on the decision of this Court rendered in the case of **Netram Vs. State of Rajasthan,** reported in **2014(1) Cr.L.R. (Raj.) 163** has argued that this Court has held that if the

samples from each bag containing poppy husk/poppy straw have not been collected and test by U.N.Kit has not been conducted on each bag and if the Seizure Officer has taken out some quantity of narcotic drug from each bag and after mixing the same has taken out some portion for sample, then, the same is not in conformity with the Standing Instruction No.1/88 issued by the Narcotics Control Bureau, New Delhi, particularly, Instruction No.1.7 and, as such, it cannot be said that the narcotic contraband recovered in the matter is of commercial quantity or above. It is, thus, prayed that the petitioner may kindly be enlarged on bail.

Having considered the overall facts and circumstances of the case and substantial grounds taken in this bail application and taking into consideration the judgment passed by this Court in **Netram's case** (supra), this Court is of the opinion that there are rare chances of petitioner's conviction and trial of the case is likely to take time, this Court is inclined to grant bail to the petitioners.

Learned Public Prosecutor has opposed the bail application.

Having regard to the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it just and proper to grant bail to the accused petitioners under Section 439 Cr.P.C.

Accordingly, these bail applications filed under Section 439 Cr.P.C. is allowed and it is directed that petitioner – Suresh Kumar S/o Jagdish, Pradeep Kumar S/o Ramchandra Manda and Sampatlal Bhambhu S/o Fularam shall be released on bail in connection with FIR No.146/2018 of Police Station

Chatargarh, Distt. Bikaner provided each of them executes a personal bond in the sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for their appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(VIJAY BISHNOI),J

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RAJASTHAN HIGH COURT

सत्यमेव जयते