SeHIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 7363/2026
CNR: RJHC021082822026 | URN: CRLMP / 18018U / 2026

Sanjeev Kumar Garg S/o Shri Ramesh Chand Garg, Aged about 50 years, Resident of Plot No.911, Scheme No. 10, Police Station Kotwali, Alwar (Rajasthan). (Presently lodged in Central Jail, Alwar).

----Petitioner

Versus

M/s Gitwako Farms (India) Private Limited, Kesarpur, District Alwar (Rajasthan), Through its Director Rajiv Singh Rajawat.

----Respondent

For Petitioner(s) : Mr. Prakash Thakuriya
For Respondent(s) :

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

17/11/2026

1. Heard.

2. The petitioner has been convicted and sentenced for the offence punishable under Section 138 N.I. Act in three cases vide separate judgments, the details whereof are mentioned as below:-

S. No.	Case Number and Title	Date of Judgment and the name of Court passing the judgment	Details of Sentence	Details of Appeal
1.	Cr. Case No.23/1704 /18, M/s Gitwako Farms (India) Private Limited Vs. Sanjeev	23.02.2024, passed by Ld. Special Magistrate (N.I. Act cases) No.2, Alwar	1 year's SI with fine of Rs.12,00,000/-,in default of payment of fine, to further undergo 1 month SI	Confirmed by Ld. Sessions Judge, Alwar vide judgment dated 13.11.2025 in Cr. Appeal No.78/2024

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	Kumar Garg			
2.	Cr. Case No.23/1733 /18, M/s Gitwako Farms (India) Private Limited Vs. Sanjeev	23.02.2024, passed by Ld. Special Judicial Magistrate (N.I. Act cases) No.2, Alwar	1 year's SI with fine of Rs.7,00,000/-,in default of payment of fine, to further undergo 1 month SI	Confirmed by Ld. Sessions Judge, Alwar vide judgment dated 13.11.2025 in Cr. Appeal No.77/2024
3.	Cr. Case No.23/1703 /18, M/s Gitwako Farms (India) Private Limited Vs. Sanjeev	23.02.2024, passed by Ld. Special Magistrate (N.I. Act cases) No.2, Alwar	1 year's SI with fine of Rs.12,00,000/-,in default of payment of fine, to further undergo 1 month SI	Confirmed by Ld. Sessions Judge, Alwar vide judgment dated 13.11.2025 in Cr. Appeal No.76/2024

3. By way of this Criminal Misc. Petition under Section 528 of BNSS R/w Section 467 of BNSS, the petitioner has prayed that the sentences (referred to above) awarded to him may be ordered to run concurrently.

4. Learned counsel for the petitioner submits that the petitioner is languishing in jail in relation to his above conviction in cases under Section 138 N.I. Act. He submits that the learned trial Court while passing the orders on sentence, ought to have directed concurrent running of sentences. He has placed reliance on judgment of Hon'ble Supreme Court rendered in the case of **Gopal Das versus State of Delhi,** reported in **AIR 1978 Delhi 138** and this Court's judgment in the case of **Madan Singh versus State of Rajasthan & Ors. (S.B. Criminal Misc. Petition 3560/2015, decided on 08.03.2017).**

5. I have heard and considered the submissions advanced at bar and have gone through the material available on record.

6. Section 427 Cr.P.C. (now Section 467 of BNSS) provides for sentence on offender who has already been sentenced for another offence. The same is reproduced hereinbelow for the sake of ready-reference:-

> **"467. Sentence on offender already sentenced for another offence.—**
> (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:
> Provided that where a person who has been sentenced to imprisonment by an order under section 141 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.
> (2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence."

7. As per Section 467 of BNSS (Section 427 Cr.P.C.), in normal course a person already undergoing a sentence of imprisonment, if sentenced on a subsequent conviction to imprisonment, such imprisonment commence at the expiration of the imprisonment to which he has been previously sentenced, but the court in its discretion based on settled principles may direct that the

subsequent sentence shall run concurrently with previous sentence. While exercising such discretion, the trial court, appellate court or revisional court, as the case may be, keep in mind several factors. In the instant case, the learned trial court did not exercise its discretion with respect to concurrency of sentences and thus, there is absolutely non-consideration of the issue about invoking this discretion which is causing great injustice.

8. In ***Arjun Ram vs State of Rajasthan : 2016 (1) Cr.L.R. (Raj.) 346,*** Hon'ble Division Bench of this Court has held that "to meet the ends of justice, power under Section 482 can be exercised if Court arrives at the conclusion that the Trial Court, Appellate Court or the Revisional Court as the case may be, failed in completing the circuit of justice while invoking/not invoking the discretion vested with it as per Section 427 Cr.P.C.

9. In the case of ***Madan Singh (Supra),*** the learned Coordinate Bench while relying upon the judgment passed by Hon’ble Supreme Court in the case of ***State of Punjab versus Madan Lal,*** reported in ***2009 (5) SCC 238,*** directed the sentences to run concurrently in five cases pertaining to the N.I. Act.

10. Having considered the overall facts and circumstances of the case and in view of the law laid down by Hon'ble Supreme Court in the case of ***Madan Lal (supra)***, this Court deems it proper to allow the instant Criminal Misc. Petition and accordingly, it is hereby directed that the sentences passed in the aforesaid three criminal cases shall run concurrently. However, the petitioner would be required to pay the fine amount or else, he shall undergo

default sentence. If the petitioner has undergone the sentence and sentence in lieu of default of fine, he be released forthwith.

(ANIL KUMAR UPMAN),J

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