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पत्र सं. 2976 में काम आया
दिनांक 30/1/26
[Signature]
प्रशासनिक प्रतिलिपि विभाग
राजस्थान उच्च न्यायालय, जयपुर

राजस्थान उच्च न्यायालय पीठ, जयपुर
Certified Copy of Order Dated... 20.11.2025

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13/11/25

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

BENCH AT JAIPUR

S.B. CRIMINAL MISC. BAIL APPLICATION NO. 15138/2025

Shaitan Singh S/o Shri Uttam Singh, Aged about 43 years, R/o Village Post Sagara, Police Station Dechu, District Jodhpur.

(That the Accused-Petitioner is currently confined at Central Jail, Jodhpur in judicial custody since 20/09/2019)

.....ACCUSED-PETITIONER

VERSUS

State of Rajasthan through PP ...RESPONDENT

S.B. CRIMINAL MISC. BAIL APPLICATION UNDER SECTION 483 B.N.S.S. AGAINST ORDER DATED 06.11.2025 PASSED BY THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE NO.-2, JAIPUR, DISTRICT JAIPUR [PRESIDING OFFICER VIDYANAND SHUKLA], [(R.J.S.) DISTRICT JUDGE CADRE] IN CRIMINAL MISC. BAIL APPLICATION NO. 232/2025, CIS NO. 324/2025 TITLED AS "SHAITAN SINGH V/S. STATE" FOR THE OFFENCES UNDER SECTION 406, 409, 420, 467, 468, 471, 120-B OF INDIAN PENAL CODE, 1860 AND IN THE MATTER ARISING OUT OF FIR NO. 32/2019, DATED 23/08/2019 REGISTERED AT P.S.: SOG, SPECIAL POLICE STATION, DISTRICT: SOG/ATS JAIPUR, UNDER SECTION 420, 406, 409, 467, 468, 471, 120-B & 65 INFORMATION TECHNOLOGY ACT, 2000 WHEREIN THE



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राजकीय अधिवक्ता
कार्यालय, उच्च न्यायालय,
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BAIL APPLICATION OF THE PRESENT ACCUSED HAD BEEN
REJECTED BY THE COURT BELOW.



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

S.B. Criminal Miscellaneous Bail Application No. 15138/2025

Shaitan Singh S/o Shri Uttam Singh, Aged About 43 Years, R/o Village Post Sagara, Police Station Dechu, District Jodhpur. (That The Accused Petitioner Is Currently Confined At Central Jail, Jodhpur In Judicial Custody Since 20/09/2019).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s) : Mr. Rajeev Surana, Sr. Adv. assisted
by Mr. Umang Jain, Adv.
Mr. Anuj Rohilla, Adv.
Ms. Muskan Verma, Adv.
Mr. Siddharth Sogani, Adv.
Ms. Palak Sinha, Adv.

For Respondent(s) : Mr. Rishi Raj Singh Rathore, PP
Mr. Ashok Chauhan, Add. SP, SOG

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

REPORTABLE

30/01/2026

1. The instant bail application under Section 483 BNSS has been filed on behalf of the petitioner, who has been arrested in connection with FIR No.32/2019, registered at SOG, Special Police Station, District SOG/ATS, Jaipur for offences punishable under Sections 406, 409, 420, 467, 468, 471 & 120B of IPC and Section 65 of the Information Technology Act. After completion of investigation, Police filed charge-sheet in the matter.

2. Learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner has falsely been implicated in this case. It is submitted that alleged offences are triable by the

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Magistrate. Learned Counsel submits that the petitioner is facing trial before the Magistrate's Court, and even in the event of conviction, the maximum sentence that may be imposed would not exceed seven years. The petitioner has already undergone incarceration for approximately six years and four months, having been in judicial custody since 20.09.2019, while the trial remains pending. Counsel submits that in these circumstances, it is apparent that petitioner's fundamental right to speedy trial, guaranteed under Article 21 of the Constitution of India, stands seriously infringed. Counsel further submits that the delay in the trial is solely attributable to the prosecution, and under such circumstances, further custody of the petitioner would not serve any fruitful purpose. It is submitted that co-accused persons have already been granted benefit of bail by Co-ordinate Bench of this Court and one co-accused has been granted benefit of bail by Hon'ble Supreme Court. Lastly, he submits that in view of the prolonged incarceration suffered by the petitioner, he may kindly be enlarged on bail. Reliance has been placed upon the judgment of Hon'ble Supreme Court in the case of **Sanjay Chandra versus CBI** reported in AIR 2012 SC 830.

3. Per contra, the learned State counsel assisted by Add. SP, SOG, vehemently oppose the submissions advanced on behalf of the petitioner. It is submitted that the delay in the trial is attributable to the accused persons because they are continuously seeking time for making submissions on the issue of charge. Counsel further submits that at least 60 adjournments have been sought from the accused side to make the submissions and



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therefore, trial is still pending at the stage of consideration of charge. It is submitted that the petitioner is a habitual offender as 38 other cases have been registered against him. It is submitted that the matter pertains to scam of crores of rupees thus, looking to the gravity of offence, benefit of bail may not be extended to the petitioner.

4. I have considered the contentions.

5. In light of the rival submissions of both the parties, I have perused the material available on record including order sheets of the trial Court placed by the Counsel for the petitioner during the course of arguments. Bare perusal of the record would reveal that the petitioner is in custody since 20.09.2019 while trial still remains pending. In deciding bail applications an important factor which should be taken into consideration by Court is the delay in concluding the trial. When the under trial prisoners are detained in judicial custody to an indefinite period, Article 21 of the constitution is violated. Every person, detained or arrested, is entitled to speedy trial. Section 346 of BNSS provides provision for conducting the trial specially when accused is in custody. Section 346 of BNSS is being reproduced below for ready reference:

Section 346: Power to postpone or adjourn proceedings:-

(1) In every inquiry or trial the proceedings shall be continued from day-to-day basis until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

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Provided that when the inquiry or trial relates to an offence under section 64, section 65, section 66, section 67, section 68, section 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) the inquiry or trial shall be completed within a period of two months from the date of filing of the chargesheet.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him:

Provided also that---

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court



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after hearing the objections of the other party and for the reasons to be recorded in writing;

(c) the fact that the advocate of a party is engaged in another Court, shall not be a ground for adjournment;

(d) where a witness is present in Court but a party or his advocate is not present or the party or his advocate though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.



6. The personal liberty is a priceless treasure for a human being. It is basically a natural right. No one would like to lose his liberty. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. The expression 'Personal Liberty' in Article 21 of the Constitution is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of a person and some of them have been raised to the

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status of distinct fundamental rights and given additional protection under Article 19 of the Constitution. 'Personal Liberty' under Article 21 of the Constitution primarily means freedom from physical restraint of person by incarceration or otherwise. The concept of "right to life and personal liberty" guaranteed under Article 21 of the Constitution includes the "right to live with dignity" and it does not mean mere animal like existence of life. After the Hon'ble Supreme Court's decision rendered in the case of **Maneka Gandhi Vs. Union of India, AIR 1978 SC 597**, Article 21 of the Constitution now protects the right of life and personal liberty of citizen not only from the executive action but from the legislative action also. A person can be deprived of his life and personal liberty if two conditions are complied with, first, there must be a law and secondly, there must be a procedure prescribed by that law provided that the procedure is just, fair and reasonable. Hon'ble Supreme Court has held in catena of the judgments that prolonged incarceration without trial is violative of rights of an accused and the court should step in to protect him and no provision can take away the power of constitutional courts to grant bail on grounds of violation of fundamental rights. Prolonged incarceration is a valid ground for granting bail in the Indian judiciary system, particularly when coupled with the anticipated length of the trial. The right to liberty under Article 21 is a critical consideration, and courts should incline to grant bail to prevent undue hardship. However, the nature of the offence, potential risks associated with releasing the accused, and the overall context of the case must be carefully evaluated.



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7. In a case, before Hon'ble Supreme Court, **Masroor v. State of U.P. reported in 2009 (14) SCC 286**, Hon'ble Supreme Court beautified that there should be a balancing approach between personal liberty of the accused and interest of public and a case of prosecution. Again, Hon'ble Supreme Court, in a case **Neeru Yadav vs. State of Uttar Pradesh, reported in 2014 (16) SCC 508**, ardently discussed the aspect of balancing two interests by observing that "The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. The society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow.

At that stage, the Court has a duty. It cannot abandon its



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sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law."

8. In the case of **Jahir Hak vs State of Rajasthan : AIR 2022 (SC) 3047**, indulgence of bail was extended to the accused therein by the Hon'ble Apex Court by considering the following observations made in the case of *Union of India vs K.A. Najeeb* (2021) (3) SCC 713:-

"12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act") which too have somewhat rigorous conditions for grant of bail, this Court in *Paramjit Singh v. State (NCT of Delhi)* [*Paramjit Singh v. State (NCT of Delhi)*, (1999) 9 SCC 252 : 1999 SCC (Cri) 1156], *Babba v. State of Maharashtra* [*Babba v. State of Maharashtra*, (2005) 11 SCC 569 : (2006) 2 SCC (Cri) 118] and *Umarmia v. State of Gujarat* [*Umarmia v. State of Gujarat*, (2017) 2 SCC 731 : (2017) 2 SCC (Cri) 114] enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.

19. Yet another reason which persuades us to enlarge the respondent on bail is that Section 43- D(5) of the UAPA is comparatively less stringent than Section 37 of the NDPS Act. Unlike the NDPS Act where the competent court needs to be satisfied that prima facie the accused is not guilty and that he is unlikely to commit another offence while on bail; there is no such precondition under UAPA. Instead, Section 43-D(5) of the UAPA merely provides another possible ground for



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the competent court to refuse bail, in addition to the well-settled considerations like gravity of the offence, possibility of tampering with evidence, influencing the witnesses or chance of the accused evading the trial by abscission, etc."

9. In the case of **Mehmood Mohammed Sayeed vs State of Maharashtra reported in 2001 (7) SRJ 336**, the Hon'ble Apex Court while considering the fact that the trial may take long time, disposed of the appeal of the appellant and released him on bail with certain conditions. The same is reproduced hereinbelow for the sake of ready-reference:-

"1. Leave granted. Though learned Counsel for the State of Maharashtra opposed appellant to be released on bail we have taken note of the fact that appellant is remaining in custody from 18-1- 2000 onwards. The offences alleged against him include Sections 463, 467, 461, 419 read with Section 120 of the Indian Penal Code. Investigation is completed and the charge-sheet has been laid. What remains is only the trial. We do not know how long the trial will take, particularly, seeing the condition of the trial Courts in Maharashtra.

2. When learned Counsel for the State noticed that we are disposed to release the appellant on bail he alternatively pleaded that stringent conditions may be imposed on him because of the allegations that he has some links with the international terrorists gang. We, therefore, impose the following conditions on him:

1. He shall report to the Worli Police Station, Mumbai on every Monday between 4.00 p.m. and 6.00 p.m. until further orders: and
2. If, he is to leave the limits of Mumbai City Corporation he shall take permission from the trial



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Court.

3. If he is prepared to abide the above conditions he shall be released on bail on his executing a bond of Rs. 2 lacs with two solvent sureties to the satisfaction of the trial Court.

This appeal is disposed of accordingly."

10. While it is true that Article 21 of the Constitution of India is of great importance because it enshrines the fundamental right to individual liberty but at the same time a balance has to be struck between the right to individual liberty and the interest of the Society. No right can be absolute and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time. The Court is also required to take into account other relevant factors, including the broader interest of society. In the present case, the petitioner has been in custody since 20.09.2019, and given the current pace of proceedings, there appears to be no likelihood of the trial concluding in the near future. A person accused of a criminal offence cannot be kept in confinement for an indefinite period as an under trial prisoner, especially when the prosecution is not diligent in producing its witnesses. The right to a speedy trial is a fundamental facet of personal liberty guaranteed under Article 21 of the Constitution. Especially when the prosecution fails to proceed with due promptness, the continued detention of the accused amounts to punishment before conviction, which is unreasonable and without justification. In such circumstances, the



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prosecution cannot take shelter under the plea that the charges are serious in nature, as the gravity of the offence alone cannot justify prolonged incarceration without progress in trial.

11. In the aforesaid facts and circumstances of the case, it is quite unfortunate and a matter of extreme concern that an accused person, while being an under trial prisoner and is at the verge of completion of the maximum sentence which could have been imposed after the completion of trial and a successful conviction. Such a situation strikes at the very root of the criminal justice system and essentially renders the presumption of innocence meaningless. This Court must recognise that the petitioner's fundamental and constitutional right to a speedy trial, as guaranteed under Article 21 of the Constitution, has been grossly and inexcusably violated. The trial Court has clearly failed to discharge its statutory obligations. Even if it is assumed that the accused did not cooperate fully at certain stages of the proceedings, this factor by itself cannot absolve the Court of its primary duty to ensure the speedy and efficient conduct of the trial. Section 346 of BNSS mandates that trial be conducted expeditiously, ideally on a day-to-day basis, and to refuse unwarranted or unreasonable requests for adjournment. It seems clear that the process itself has become punitive as a result of judicial lethargy or misguided indulgence in granting frequent adjournments. Under no circumstances should the law countenance a scenario where an accused is made to suffer incarceration equivalent to, or exceeding, the sentence that could be imposed only after a conviction. To permit such a consequence



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would amount to punishment without trial and would constitute a grave miscarriage of justice. The continued detention of the petitioner in these circumstances is wholly unjustified, unconstitutional, and contrary to the most basic principles of fairness and due process that underpin our criminal jurisprudence.

12. Since, the petitioner is facing trial before the Court of Chief Judicial Magistrate, Jaipur, District Jaipur, where, in any event, the maximum sentence, that can be imposed in case of conviction, would not exceed seven years, notwithstanding that one of the alleged offence carries maximum sentence of life imprisonment and in the peculiar facts and circumstances of the case, particularly looking to the fact that the petitioner has already suffered incarceration of six years and four months, in the firm opinion of this Court, seriousness of the charge and pendency of other criminal cases cannot be the ground to refuse the facility of bail.

13. In backdrop of the aforesaid factual and legal aspect, this bail application is accordingly allowed and it is directed that accused-petitioner **Shaitan Singh S/o Shri Uttam Singh** shall be released on bail provided he furnishes a personal bond in the sum of Rs.1,00,000/- together with two sureties in the sum of Rs.50,000/- 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.

14. Considering the criminal antecedents of the petitioner, it is made clear that the accused-petitioner shall not involve in any



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other offence(s) during currency of the bail. After being released from prison, he shall mark his presence in the concerned police station in first week of every month, till trial is concluded. He shall also surrender his passport (if any) to the trial Court. It is further directed that petitioner shall share his mobile number (in use) to the trial Court and investigating agency and shall keep his mobile phone in active mode and may not switch it off for a longer period intentionally.

15. Concerned SHO shall enter attendance of the petitioner in the Roznamcha. In case the petitioner fails to mark his presence in the concerned police station, the concerned SHO is directed to immediately report the matter to the concerned Court in this regard.

16. If any breach of these conditions is reported or come to the notice of the Court, the same shall alone be a reason for the trial Court to cancel the bail granted to him by this Court.

17. Office is directed to send a copy of this order to the concerned SHO for necessary compliance.

18. A copy of this order be forwarded to the District & Sessions Judge, Jaipur with the directions to ensure the necessary compliance of provisions of Section 346 of BNSS as observed by this Court, particularly in paragraph No.11 of this order.

19. The observations made hereinabove are only for decision of the bail application and would not have any impact on the trial of the case in any manner.


(ANIL KUMAR UPMAN),J

Manoj Solanki /47

