



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



S.B. Criminal Miscellaneous Bail Application No. 12106/2025

Sanjay Saxena S/o Shri Uma Shankar Saxena, Aged About 55 Years, R/o 151, Manas Nagar, Shahganj, Agra (Up). Dy. Manager, Sahara City Homes, Marketing And Sales Corporation (Sahara Prime City Limited), Radhaswami Vyas Ke Samne, Beelwa, Tonk Road, Jaipur. (At Present In Central Jail, Jaipur).

----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. Smt. Pratibha Srivastava W/o Late Shri Ashok Kumar Srivastava, R/o 70/15, Patel Marg, Mansarovar, Jaipur.
3. Gaurav Srivastava S/o Late Shri Ashok Kumar Srivastava, R/o 70/15, Patel Marg, Mansarovar, Jaipur.

----Respondents

For Petitioner(s) : Mr. Harendra Singh, Adv.
For Respondent(s) : Mr. Amit Punia, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

REPORTABLE

Order

1. **Date of conclusion of arguments :** **12.01.2026**
2. **Date on which the judgment was reserved :** **12.01.2026**
3. **Whether the full judgment or only the operative part is pronounced :** **Full Judgment**
4. **Date of pronouncement :** **16.01.2026**

1. This bail application has been filed under Section 483 of BNSS, on behalf of the petitioner, against the order dated 04.09.2025, passed in Consumer Complaint No.104/2019 in Criminal Misc. Application No.09/2022 by Rajasthan State Consumer Dispute Redressal Commission, Jaipur, whereby learned



Commission has rejected the second bail application moved by the petitioner under Section 436 of Cr.P.C./Section 478 of BNSS.

2. The brief facts of the case are that on 18.06.2019, a complaint was filed by Smt. Pratibha Srivastava & Shri Gaurav Srivastava before the Rajasthan State Consumer Dispute Redressal Commission (hereinafter referred to as "Commission") against Sahara Prime City Ltd. and others, which was registered as Complaint Case No.104/2019. The learned Commission vide order dated 16.08.2021 allowed the said complaint and directed the non-applicants to return the amount of Rs.66,07,973/- along with interest @ 10% p.a. to the complainant. The compensation amount of Rs.2.50 lakhs with interest was also allowed. Since, the said order dated 16.08.2021 was not complied with, the complainants filed a contempt application No.09/2022 before the Commission on 24.01.2022 impleading the present petitioner as respondent No.4. The petitioner did not appear before the Commission and therefore, warrant was issued against him. In pursuance of the warrant issued by the Commission, petitioner was produced before the learned Commission. On production, an application for bail was filed by the petitioner but said application was dismissed by the learned Commission vide order dated 05.08.2025. Thereafter, the petitioner moved second bail application before the Commission, which was also dismissed by the Commission vide impugned order dated 04.09.2025 by observing that offence under Section 72 of the Consumer Protection Act, 2019 (hereinafter referred to as 'the Act, 2019') is a non-bailable offence. Against the rejection of the bail





application, petitioner has preferred the present bail application before this Court under Section 483 of the BNSS, however, registry of the Court has observed that filing of bail application directly before this Court under Section 483 of BNSS against the order passed by the State Commission seems improper.

3. This Court requested the Bar to assist the Court on this issue and learned Senior Advocate, Mr. V.R. Bajwa, Mr. Pankaj Gupta and Mr. Shivcharan Gupta graciously assisted the Court on the issue at hand.

4. It is undisputed that the petitioner is currently in judicial custody. Now, the question before this Court is what legal remedy remains available to the petitioner following the rejection of his bail application by the Commission. To address this question, the Court would first like to refer to Sections 72 and 73 of the Act, 2019 which are reproduced below:-

72. (1) Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Commission, the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of first class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of first class for





the purposes of the Code of Criminal Procedure, 1973.

(3) Save as otherwise provided, the offences under sub-section (1) shall be tried summarily by the District Commission or the State Commission or the National Commission, as the case may be.

73. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from—

- (a) the order made by the District Commission to the State Commission;
- (b) the order made by the State Commission to the National Commission; and
- (c) the order made by the National Commission to the Supreme Court.

(2) Except as provided in sub-section (1), no appeal shall lie before any court, from any order of a District Commission or a State Commission or the National Commission, as the case may be.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of order of a District Commission or a State Commission or the National Commission, as the case may be:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.

5. A conjoint reading of these provisions clarifies that, while trying an offence under Section 72 of the Act, 2019 the District, State, or National Commission is deemed to be a Court of the Judicial Magistrate of the first class. It further establishes that if





an order or judgment is passed under Section 72(1) of the Act, 2019, an appeal shall lie as follows:

- (a) from the District Commission to the State Commission;
- (b) from the State Commission to the National Commission; and
- (c) from the National Commission to the Supreme Court.

6. It is also evident that no appeal lies against any other interlocutory or procedural order passed by these Commissions during the trial of an offence punishable under Section 72 of the Act, 2019.

7. Given this statutory framework, it is clear that while trying an offence under Section 72 of the Act, 2019 the District, State, or National Commission act as a Court of the Judicial Magistrate of the first class. Consequently, an order rejecting bail under Section 437 of the Cr.P.C. (Section 480 of BNSS) may be challenged before the concerned Sessions Court under Section 439 of the Cr.P.C. (Section 483 of BNSS), as the Act provides no alternative or statutory remedy against such orders.

8. The Court's reasoning is built on a vital distinction between a statutory appeal and the inherent right to seek bail. While Section 73(2) of the Act, 2019 contains a bar stating that no appeal shall lie before any other Court, this restriction is specifically directed at appeal. A bail application cannot fall within the ambit of this bar as it is not an appeal and it is a request for the protection of personal liberty during the pendency of a criminal trial. Because Section 73(1) of the Act, 2019 is highly restrictive and only provides a





remedy for those already convicted under Section 72(1) of the Act, 2019, the legislature has left a procedural vacuum regarding interlocutory or intermediate orders. Consequently, when the Commission denies bail, it is not passing an order that is appealable under the Act's internal hierarchy and it creates a remedy gap that must be addressed to prevent indefinite detention like in the present case without having any forum to file a further application for grant of bail.

9. To fill this very gap, this Court observes that since Section 72(2) of the Act, 2019 specifically deems the Commission to be a Court of the Judicial Magistrate of the first class for the purpose of the trial, its procedural actions which are not covered by the special act, must be governed by the general criminal law. Because the Act provides no internal mechanism to challenge a bail rejection, the provisions of the BNSS (or CrPC) ought to necessarily step in such a situation. In the present case, the petitioner is not seeking "right to appeal" under the Act, but is praying for a fresh bail application under concurrent jurisdiction of the Sessions Court or High Court provided under Section 483 of BNSS (Corresponding to Section 439 of Cr.P.C.).

10. In view of the above observations, this Court holds that if any person appears or is brought before the District, State, or National Commission, as the case may be, for the trial punishable under Section 72 of the Act, 2019, and files a bail application before the Commission and the said bail application is rejected by the Commission, then the said person would be at liberty to seek bail before the concerned Sessions Court under Section 483 of





BNSS (439 Cr.P.C.). The Sessions Court shall then decide such bail application on its merits without questioning its maintainability.

11. Now advertent to the peculiar facts of the present case, it is noticed that the maximum punishment prescribed for the alleged offence is three years. The petitioner has already undergone incarceration of more than five months. In these circumstances, relegating the petitioner to approach the Sessions Court for the same purpose he has approached this Court, would not only be unduly harsh but would also not serve the ends of justice. This Court is vested with concurrent jurisdiction under Section 483 of the BNSS, and therefore, considering the nature of the allegations, the period of custody already undergone, and the overall facts and circumstances of the case, I deem it just and proper to release the petitioner on bail, subject to appropriate terms and conditions which may be imposed by the trial Court.

12. Accordingly, this bail application is allowed and it is directed that accused-petitioner **Sanjay Saxena S/o Shri Uma Shankar Saxena** shall be released on bail, subject to appropriate terms and conditions which may be imposed by the trial Court.

(ANIL KUMAR UPMAN),J

Manoj Solanki /-