

# Mam Chand @ Bhola Ram vs State Of Rajasthan on 22 March, 2021

**Author: Sandeep Mehta**

**Bench: Sandeep Mehta**

(1 of 4)

[CRLMB-3861/2021]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR  
S.B. Criminal Miscellaneous Bail Application No. 3861/2021

Mam Chand @ Bhola Ram S/o Teja Ram, Aged About 40 Years,  
Bhaggu Ka Bas, Police Station Harsora, District Bhiwadi. (At  
Present Lodged In District Jail, Nagaur).

----Petitioner

Versus

State Of Rajasthan, Through P.p.

----Respondent

For Petitioner(s)	:	Mr. Ravindra Acharya
For Respondent(s)	:	Ms. Anita Gehlot, P.P.

HON'BLE MR. JUSTICE SANDEEP MEHTA

Order 22/03/2021 The instant bail application under Section 439 CrPC has been preferred by the petitioner Mam Chand @ Bhola Ram S/o Teja Ram, who is in custody in connection with the F.I.R. No.8/2021 registered at the Police Station Kuchera, District Nagaur for the offence under Section 19/54 of the Rajasthan Excise Act.

Heard learned counsel for the parties and perused the material available on record.

The petitioner has been arrested in this case for the above offence, which is triable by a Court of Magistrate. It may be mentioned here that the consignment of liquor was recovered from an un-numbered Bolero vehicle, in which co-accused Sunil and Kaluram were found present. That the bail application Nos.796/2021 and 1157/2021 preferred by co-accused Kalu Ram and Sunil respectively have been accepted by this court vide (2 of 4) [CRLMB-3861/2021] orders dated 25.01.2021. The petitioner as been implicated in this case simply on the basis of the interrogation note of the co-accused persons, the admissibility whereof is questionable. It indeed a matter of great concern that while rejecting the application for bail filed on behalf of the present petitioner, the trial court did not even refer to the orders passed by this court, whereby the bail applications of the co-accused persons (From whom recovery was effected) were accepted as above. This court

considered this aspect in the case of Ajaypal Vs. State of Rajasthan [S.B. Criminal Misc. Bail Application No.14683/2020] and observed as below :-

"As per Section 439 Cr.P.C., the Sessions Court as well as the High Court while considering the bail applications of arrested accused have concurrent jurisdiction. Needless to say that while considering bail applications of similarly situated accused persons, parity has to be maintained and it should be ensured that unless any distinguishable feature or any special circumstance is in existence, the bail of a subsequently arrested accused on same footing should not be dismissed when other/s with similar allegations have been extended indulgence of bail.

Furthermore, for maintaining judicial discipline it is essential that in cases where this Court has decided bail application/s of some accused in a particular case and the bail application of the co-accused comes up before the Sessions Court/Additional Sessions Court concerned, this Court's order/s must be referred to and duly regarded in the order/s deciding such bail application/s.

In the present case, the learned Addl. District & Sessions Judge No.6, Jodhpur Metro, while rejecting the bail application of the petitioner by order dated 09.12.2020 did not refer to the order dated 07.02.2020 passed by this Court whereby the co-accused Vikas whose case stands on the same footing as the petitioner, was admitted to bail. This indicates the gross disregard of this Court's order by the learned Addl. District & Sessions Judge No.6, Jodhpur Metro.

(3 of 4) [CRLMB-3861/2021] The approach of the learned Addl. District & Sessions Judge No.6, Jodhpur Metro in denying bail to the petitioner even though similarly situated accused has been granted bail in the very same case is deprecated as such an approach not only tantamounts to a total disregard of this Court's order but also increases this Court's dockets flooding it with unwarranted bail applications and also prolongs the custody of the accused without any justification. It is henceforth expected from all the Subordinate Courts in the State of Rajasthan that where similarly situated co-accused has been granted bail by this Court and the bail application of other accused comes up for consideration, this Court's order/s shall not only be referred to while deciding such bail application/s but shall be followed unless exceptional/distinguishable features exist."

As per the order rejecting bail, only one more case for the offences under section 341 and 323/34 IPC is registered against the petitioner. Obviously, the said case has nothing to do with smuggling of liquor. Manifestly, the case of the present petitioner stands on a better footing than that of the co-accused persons, who have been enlarged on bail. Despite that and without considering the orders passed by this court on the bail applications of the main accused Kalu Ram and Sunil, the Court below rejected the bail application of the present petitioner in a totally mechanical and lackadaisical manner. This perfunctory approach of the Presiding Officer is fit to be deprecated.

Having regard to the entirety of the facts and circumstances of the case, I am inclined to grant indulgence of bail to the petitioner.

Accordingly, the instant bail application under Section 439 CrPc is allowed. It is ordered that the accused-petitioner Mam Chand @ Bhola Ram S/o teja Ram arrested in connection with F.I.R. No.8/2021 registered at the Police Station Kuchera, District Nagaur shall be released on bail; provided he furnishes a personal (4 of 4) [CRLMB-3861/2021] bond of Rs.50,000/- and two surety bonds of Rs.25,000/- each to the satisfaction of the learned trial court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.

(SANDEEP MEHTA),J 97-Pramod/-

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