

## Bhoda Ram & Ors vs State on 20 November, 2017

**Author: Pushpendra Singh Bhati**

**Bench: Pushpendra Singh Bhati**

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Misc. Bail No. 8874 / 2017

Rawta Ram Son of Shri Chetan Ram, By Caste Jat, Resident of  
Goliya Jetmal, Gudamalani Police Station, District Barmer. (Lodged  
in District Jail, Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

Connected With

S.B. Criminal Misc. Bail No. 7347 / 2017

Manoj S/o Naga Ram, Aged About 28 Years, By Caste Jat,  
Resident of Kanasar, Police Station Sheo, District Barmer. (At  
Present Lodged in District Jail, Barmer).

----Petitioner

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7348 / 2017

Khanu Ram Son of Aadu Ram, By Caste Bheel, Resident of Udasar,  
Gudamalani Police Station, District Barmer. (Lodged in District Jail,  
Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7396 / 2017

1. Satta Ram Son of Roopa Ram, Aged About 21 Years, By Caste  
Jat, Resident of Ratasar, P.S. Binjrad, District Barmer.

2. Dharma Ram Son of Prahalad Ram, Aged About 35 Years, By  
Caste Jat, Resident of Kosariya Lapla, Tehsil Bayatu, District  
Barmer. (At Present Lodged in District Jail, Barmer)

----Petitioners

Versus  
(2 of 15)

[ CRLMB-8874/2017]

State of Rajasthan Through Public Prosecutor

----Respondent

S.B. Criminal Misc. Bail No. 7527 / 2017  
Banka Ram Son of Shri Rama Ram, Aged About 29 Years, By  
Caste Jat, Resident of Bhurtiya, Nagana Police Station, District  
Barmer. (Lodged in District Jail, Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7528 / 2017  
1. Narpal Singh Son of Daulat Singh, By Caste Rajput, Resident of  
Baslaniyo Ka Talla (Booth Jetmal), Tehsil & District Barmer.  
2. Joga Ram Son of Jugta Ram, By Caste Jat, Resident of  
Mandawala, Tehsil Sindhari, District Barmer.  
3. Prahlad Ram Son of Achla Ram, By Caste Jat, Resident of  
Sanwlor, Tehsil Chouhtan, District Barmer. (Lodged in District Jail,  
Barmer)

----Petitioners

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7529 / 2017  
Jagdish Son of Shri Varinga Ram, By Caste Vishnoi, Resident of  
Chadi, Tehsil Ramsar, District Barmer. (Presently Lodged At District  
Jail Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7911 / 2017

1. Hukma Ram S/o Poonma Ram, B/c Jat  
(3 of 15)

[ CRLMB-8874/2017]

2. Parwat Singh S/o Fateh Singh, B/c Rajput R/o Koshlu Tehsil  
Gudamalani District Barmer. (Both At Present Lodged in Dist. Jail,  
Barmer)

----Petitioners

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 7918 / 2017

- Omprakash s/o Shri Dheeraram, b/c Vishnoi, r/o Nagar Tehsil  
Gudamalani, District Barmer (Haal Nyayik Abhiraksha, Jila  
Karagrah, Barmer)

----Petitioner

Versus

State

----Respondent

S.B. Criminal Misc. Bail No. 7919 / 2017

1. Suresh Kumar S/o Shri Babu Ram
2. Kheta Ram S/o Shri Mohan Lal, Both by Caste- Meghwal,  
Resident of Dhandalawas, Tehsil Guda Malani, District Barmer. (At  
Present Lodged in District Jail Barmer)

----Petitioners

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8135 / 2017

1. Bhoda Ram S/o Ladhu Ram, Aged About 23 Years, B/c Bishnoi,

R/o Disantariyo Ki Nadi, (Nagar), P.S. Rageswari, Barmer.

2. Suresh Kumar S/o Shankara Ram, Aged About 25 Years, B/c Nai, R/o Udoniyo Ki Dhani, P.S. Gudamalani, Barmer.

3. Poonma Ram S/o Narsinga Ram, Aged About 40 Years, B/c Jat, R/o Madpura Barwala, P.S. Nagana, District Barmer. (All Are Presently in Judicial Custody At District Jail, Barmer)

----Petitioners

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[ CRLMB-8874/2017]

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8136 / 2017

1. Bhawara Ram S/o Tulcha Ram, Aged About 32 Years, B/c Jat, R/o Ishrol, P.S. Chotan, Barmer.

2. Jaiprakesh S/o Tola Ram, Aged About 23 Years, B/c Jat, R/o Bhurtiya, P.S. Nagana, Barmer.

3. Shri Jeet S/o RamDas, Aged About 27 Years, B/c Nayar, R/o Allapalli, House No. 4/136, P.S. Puduseri, District Palakada, Kerala.

4. Papu Ram S/o Hanuman Ram, Aged About 34 Years, B/c Jat, R/o Dhonari Nadi, Rawatsar, P.S. Sadar Barmer, Barmer. (All Are Presently in Judicial Custody At District Jail, Barmer)

----Petitioners

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8137 / 2017

Pramod Mahla S/o Banwari Lal, B/c Jat R/o Shekhpura Tehsil Chidava Dist. Jhujhnu. (At Present Lodged in Dist. Jail Barmer)

----Petitioner

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8252 / 2017  
Uka Ram S/o Mawa Ram, Aged About 26 Years, B/c Devasi, R/o  
Sada, P.S. Sindhari, District Barmer. (Presently in Judicial Custody  
At District Jail, Barmer)

----Petitioner

Versus

The State of Rajasthan

(5 of 15)

[ CRLMB-8874/2017]

----Respondent

S.B. Criminal Misc. Bail No. 8253 / 2017  
Adu Ram S/o Himmta Ram, Aged About 22 Years, B/c Jat, R/o  
Koshlu, P.S. Sindhari, District Barmer. (Presetnly in Judicial  
Custody At District Jail, Barmer.)

----Petitioner

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8353 / 2017  
1. Rukhmana Ram S/o Nanga Ram, B/c Jat R/o Dholanada Tehsil  
Gudamalani District Barmer.  
2. Mohan Ram S/o Mota Ram, B/c Jat R/o Hathi Tala Tehsil and  
District Barmer.  
3. Khema Ram S/o Bhana Ram, B/c Jat R/o Nagneshiya Dhunga  
Nagana Tehsil and District Barmer.  
4. Prahalad Puri S/o Tej Puri, B/c Swami R/o Maliyon Ki Dhani  
Gudamalani Tehsil Gudamalani District Barmer. (All At Present  
Lodged in Dist. Jail Barmer)

----Petitioners

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8594 / 2017  
Om Prakash Son of Hema Ram, By Caste Bishnoi, Resident of  
Village Data, Tehsil Sanchoe, District Jalore. (Lodged in District  
Jail, Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 8875 / 2017  
Kumbha Ram Son of Shri Binza Ram, By Caste Jat, Resident of  
(6 of 15)

[ CRLMB-8874/2017]

Madpura Barwala, Tehsil Baitu, District Barmer. (Lodged in District  
Jail, Barmer)

----Petitioner

Versus

State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 9261 / 2017  
Gautam Singh S/o Kan Singh, By Caste Rajpurohit, Resident of  
Barmer Gadan, Tehsil & District Barmer. (At Present Lodged in  
District Jail, Barmer).

----Petitioner

Versus

The State of Rajasthan

----Respondent

S.B. Criminal Misc. Bail No. 9321 / 2017  
Ganesha Ram @ Jetha Ram Son of Laxman Ram, By Caste Jat,  
Resident of Darjio Ki Dhani, Madhasar, P.S. Bayatu, District  
Barmer. (At Present Lodged in District Jail Barmer)

----Petitioner

Versus

State of Rajasthan Through Public Prosecutor.

---Respondent

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For Petitioner(s) : Mr. JS Choudhary, Sr. Advocate  
Mr. Mahesh Bora, Sr. Advocate  
Mr. Vijay Raj Bishnoi, Mr. Sunil Joshi, Mr.  
Dhirendra Singh, Mr. RJ Punia, Mr. KC  
Choudhary, Mr. Sheetal Kumbhat, Mr. ML  
Bishnoi, Mr. Siddharth Karwasra, Mr. Jitendra  
Ojha, Mr. BL Dhaka  
For Respondent(s) : Mr. KL Thakur, AAG  
Mr. KL Vishnoi  
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HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

(7 of 15) [ CRLMB-8874/2017] Order Reserved on 06/11/2017 Pronounced on 20/11/2017

1. The petitioners have moved these bail applications under Section 439 Cr.P.C.
2. The allegations in FIR No.191/2017 registered at Barmer Sadar Police Station, District Barmer pertain to the offences under Sections 420, 407, 379 & 120B IPC and Sections 3/7 and 3/8 of the Essential Commodities Act; FIR No.56/2017 registered at Police Station, Nagana, District Barmer for the offences under Sections 420, 467, 468, 407, 379 & 120B IPC and Sections 3/7 and 3/8 of the Essential Commodities Act; CR No.191/2017 registered at Police Station, Barmer Sadar, District Barmer for the offences under Sections 420, 407, 379 & 120B IPC and Sections 3/7 and 3/8 of the Essential Commodities Act.
3. The allegation against the present petitioners, who are either drivers or employees or managing the transportation, is that they loaded the oil from the Company and unloaded the same in a factory, which was raided by the respondents and on recovery of the oil, the present petitioners were found to be involved in stealing of the oil during transportation and dumping it at the empty premises in Gujarat.
4. Learned Additional Advocate General has pointed out that the recovery based on the density/API properties suggested that the sample from location C-1, C-2 and C-7, which was taken by the team, resembles cairn satellite crude oil. It was also (8 of 15) [ CRLMB-8874/2017] suggested that based on the density/API properties, poor point and sulphur, C-3 sample was suspected mixture of cairn satellite crude with other oil. It was further suggested that based on the density and smell, C-6 sample was resembling kerosene. The call details were taken and it was found that all the accused persons were in contact with each other.
5. Learned counsels for the petitioners argued that the petitioners were involved in crude oil transportation, and in fact, no theft was made out. Learned counsels for the petitioners also stated that the challan has already been filed in the present case and the trial is likely to take a long time, and all the offences alleged against the accused persons are triable by Magistrate.

6. Learned counsels for the petitioners also submitted that from the case diary itself, it is not clear as to what was the nature of crude oil and stock register clearly pointed out that the delivery of the liquid was in order and matching with each other, which reflected that no offence was made out.

7. Learned counsels for the petitioners further submitted that the petitioners are in custody since July, August, 2017, and no purpose would be served by keeping them in custody.

8. Learned Additional Advocate General however, pointed out that it is a larger conspiracy, whereby the oil has been taken, and during transportation, the transport Company as well as the employees thereof alongwith drivers, are closely coordinating such siphoning of the crude oil.

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9. Learned Additional Advocate General also stated that the oil is a precious mineral resource and stealing thereof is against national interest and the State revenue, and thus, no leniency can be shown by granting indulgence of bail to such accused persons.

10. Learned counsels for the petitioners, in their rejoinder, stated that the petitioners are not regular thieves and during the transportation and other activities, if there was any irregularity, then the same can come out in the trial. Learned counsel for the petitioners further stated that the water record and stock register clearly indicated that no offence has been committed by the present petitioners.

11. Learned counsels for the petitioners also stated that most of the petitioners are drivers, cleaners, tanker owners, and therefore, they cannot be said to have committed any offence, which was so serious, so as to call for their prolonged custody.

12. Learned Additional Advocate General strongly refuted the fact that Section 413 IPC is triable by Magistrate, and in fact pointed out that Section 413 IPC is triable by the Court of Sessions.

13. Learned Additional Advocate General stated that since the offence is against the State, and involves precious mineral, and the act has been done in a very sophisticated and well planned manner while the accused conspired in a manner, defeating the modern techniques like GPS etc. Thus, the present cases do not fall for any interference by this Court at this stage.

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14. Learned Additional Advocate General, in support of his submissions, relied upon the precedent law laid down by the Hon'ble Apex Court in Vaman Narain Ghiya Vs. State of Rajasthan, reported in (2009) 2 SCC 281, in which the bail application of the accused was rejected on the ground of several nefarious activities of smuggling of antiques, particularly idols, to foreign countries for heavy sums of money.



14. Heard the learned counsel for the parties as well as perused the record of the case alongwith the precedent law cited at the Bar.

15. This Court also takes note of the details regarding the petitioners, which are as follows:-

Bhodaram s/o Shri Ladhuram Helper Tanker Suresh Kumar s/o Shri Shankaram Helper Tanker Poonamaram s/o Narsingaram Driver & Owner Tanker Manoj Kumar s/o Nagaram Manager, SMCC Transport Company Khanuram s/o Shri Aduram Driver Tanker Bankaram s/o Shri Ramaram VTS Operator Narpat Singh s/o Shri Daulat Singh Driver Tanker Jogaram s/o Shri Jugtaram Driver Tanker Prahladpuri s/o Shri Tejpuri Driver Tanker Jagdish s/o Shri Varingaram Driver Tanker Om Prakash s/o Shri Hemaram Vishnoi Surveyor Sureshkumar s/o Shri Baburam Driver Tanker Pramod Mahla s/o Shri Banwarilal Surveyor (11 of 15) [ CRLMB-8874/2017] Bhanwara Ram Driver Tanker Jaiprakash s/o Shri Tolaram VTS Operator Shrijeet Singh s/o Shri Ramdas MPT Surveyor Papuram s/o Shri Hanumanram Driver Tanker Aduram s/o Shri Himtharam Helper Sataram s/o Shri Rooparam Driver Tanker Dharmaram s/o Shri Prahladram Helper Tanker Hukmaram s/o Shri Poonamaram Helper Ukaram s/o Shri Mawaram Devasi Employee Omprakash s/o Shri Dheeraram Driver Tanker Rawataram s/o Shri Chetanram Owner Tanker Ganeshram @ Jetharam s/o Laxman Ram Owner Tanker Khetaram s/o Mohan Lal Driver Tanker Gautamsingh Rajpurohit s/o Kan Singh Manager, Fly Infratech Factory

16. This Court is of the opinion that except for one accused, namely, Gautam Singh s/o Kan Singh, all the petitioners are charged with the offences triable by the Magistrate. All the accused persons are in jail since July, August 2017. The trial is likely to take some time and the petitioners are not required for investigation, and there is no apprehension raised by the petitioners regarding the petitioners' absconding.

17. The precedent law cited by the learned Additional Advocate General is not applicable to the present set of circumstances, as the present case is not pertaining to several nefarious activities, but only allegation in the present case is (12 of 15) [ CRLMB-8874/2017] pertaining to one Company and the modus operandi thereof adopted for stealing the oil.

17. Thus, in the given circumstances, without prejudicing the case of either parties, on merits, this Court is of the opinion that looking to the long custody of the petitioners and completion of the investigation as far as the present petitioners are concerned as well as the fact that the petitioners, except the one charged with the offence under Section 413 IPC, which is triable by the Court of Sessions, are being charged with the offences, which are triable by the Magistrate, this Court is inclined to grant indulgence of bail to all the present petitioners.

11. Consequently, the bail applications are allowed. It is ordered that the accused-petitioners, (1) Rawta Ram Son of Shri Chetan Ram arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station, District Barmer (2) Manoj S/o Naga Ram arrested in connection with F.I.R.

No.191/2017, Police Station Sadar, Barmer (3) Khanu Ram Son of Aadu Ram arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station , District Barmer (4) Satta Ram Son of Roopa Ram arrested in connection with F.I.R. No.56/2017, Police Station Nagana, District Barmer (5) Dharma Ram Son of Prahalad Ram arrested in connection with F.I.R. No.56/2017, Police Station Nagana, District Barmer (6) Banka Ram Son of Shri Rama Ram arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station, District Barmer (7) Narpat (13 of 15) [ CRLMB-8874/2017] Singh Son of Daulat Singh arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station , District Barmer (8) Joga Ram Son of Jugta Ram arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station , District Barmer (9) Prahlad Ram Son of Achla Ram arrested in connection with F.I.R. No.191/2017, Barmer Sadar Police Station , District Barmer (10) Jagdish Son of Shri Varinga Ram arrested in connection with CR No.191/2017, Police Station, Barmer Sadar, District Barmer (11) Hukma Ram S/o Poonma Ram arrested in connection with F.I.R. No.56/2017, Police Station, Nagana, District Barmer (12) Parwat Singh S/o Fateh Singh arrested in connection with F.I.R. No.56/2017, Police Station, Nagana, District Barmer (13) Omprakash s/o Shri Dheeraram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, Barmer (14) Suresh Kumar S/o Shri Babu Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, Barmer (15) Kheta Ram S/o Shri Mohan Lal arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, Barmer (16) Bhoda Ram S/o Ladhu Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, Barmer (17) Suresh Kumar S/o Shankara Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, Barmer (18) Poonma Ram S/o Narsinga Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, (14 of 15) [ CRLMB-8874/2017] Barmer (19) Bhawara Ram S/o Tulcha Ram arrested in connection with CR No.191/2017, Police Station, Sadar, Barmer (20) Jaiprakesh S/o Tola Ram arrested in connection with CR No.191/2017, Police Station, Sadar, Barmer (21) Shri Jeet S/o RamDas arrested in connection with CR No.191/2017, Police Station, Sadar, Barmer (22) Papu Ram S/o Hanuman Ram arrested in connection with CR No.191/2017, Police Station, Sadar, Barmer (23) Pramod Mahla S/o Banwari Lal arrested in connection with F.I.R. No.191/2017, Police Station Sadar, District Barmer (24) Uka Ram S/o Mawa Ram arrested in connection with C.R.No.56/2017, Police Station, Nagana, Barmer (25) Adu Ram S/o Himmta Ram arrested in connection with C.R.No.56/2017, Police Station, Nagana, Barmer (26) Rukhmana Ram S/o Nanga Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, District Barmer (27) Mohan Ram S/o Mota Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, District Barmer (28) Khema Ram S/o Bhana Ram arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, District Barmer (29) Prahalad Puri S/o Tej Puri arrested in connection with F.I.R. No.191/2017, Police Station, Sadar, District Barmer (30) Om Prakash Son of Hema Ram arrested in connection with F.I.R. No.56/2017, Nagana Police Station, District Barmer, (31) Kumbha Ram Son of Shri Binza Ram arrested in connection with F.I.R.

(15 of 15) [ CRLMB-8874/2017] No.191/2017, Barmer Sadar Police Station, District Barmer (32) Gautam Singh S/o Kan Singh arrested in connection with F.I.R. No.56/2017, Police Station, Nagana, District Barmer and (33) Ganesha Ram @ Jetha Ram Son of Laxman Ram arrested in connection with F.I.R. No.56/2017, Police Station, Nagana, District Barmer shall be released on bail; provided each of them furnish a personal 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.

(DR. PUSHPENDRA SINGH BHATI)J. Skant/-