

कार्यालय अतिरिक्त महानिदेशक पुलिस, सी.आई.डी. (अपराध शाखा)

राजस्थान, जयपुर।

क्रमांक:- र-9ख(50)अ.शा./विधि/2015/3351-342

दिनांक: 12.03.15

परिपत्र

विषय:- एस.बी. क्रिमिनल मिस. जमानत प्रार्थना संख्या 15055/14 द्वारा श्रीमति गुड्डी एवं श्रीमति कल्याणी बनाम राज्य सरकार व अन्य में आदेश दिनांक 12.03.15 के निर्देशों की पालना के संबंध में।

उपरोक्त विषयान्तर्गत प्रकरण में माननीय उच्च न्यायालय जयपुर पीठ जयपुर ने आदेश दिनांक 12.03.15 (प्रति संलग्न) में दण्ड प्रक्रिया संहिता की धारा 173(8) के अंतर्गत अनुसंधान पैण्डिंग रखने के संबंध में टिप्पणी की है कि पर्याप्त साक्ष्य होने के बावजूद प्रायः अनुसंधान अधिकारियों द्वारा गिरफ्तारी के अभाव में उनके विरुद्ध दण्ड प्रक्रिया संहिता की धारा 173(8) के अंतर्गत अनुसंधान पैण्डिंग रखा जाता है जबकि ऐसी स्थिति में दण्ड प्रक्रिया संहिता की धारा 299 के प्रावधानानुसार कार्यवाही करनी चाहिये।

पूर्व में एस.बी. क्रिमिनल मिस. जमानत प्रार्थना संख्या 8513/13 द्वारा मुकेश मीणा बनाम राज्य में माननीय उच्च न्यायालय जयपुर के आदेश दिनांक 09.12.2013 द्वारा इसी प्रकार के निर्देश प्राप्त होने पर इस कार्यालय के परिपत्र संख्या र-9ख(4)अ.शा./विधि/2014/2115-2215 दिनांक 03.03.14 द्वारा विस्तृत दिशा निर्देश जारी किये गये थे। इसी क्रम में पुनः निर्देशित किया जाता है कि किसी प्रकरण में अभियुक्त के विरुद्ध पर्याप्त साक्ष्य मौजूद होने की स्थिति में राजस्थान पुलिस नियम 2007 की धारा 37 के प्रावधानानुसार अभियुक्त के विरुद्ध वारंट सक्षम न्यायालय से जारी कराया जाए। अदम गिरफ्तारी की सूरत में स्थायी वारंट जारी कराया जाए एवं दण्ड प्रक्रिया संहिता की धारा 82,83 की कार्यवाही करायी जाकर दण्ड प्रक्रिया संहिता की धारा 299 एवं 174(ए) के प्रावधानानुसार कार्यवाही की जाए।

उक्त निर्देशों की पालना नहीं किये जाने पर संबंधित अनुसंधान अधिकारी विभागीय कार्यवाही के लिये उत्तरदायी होगा। अतः माननीय न्यायालय के निर्देशों के परिपेक्ष्य में पालना सुनिश्चित करावे।

संलग्न:- उपरोक्तानुसार।

(पंकज कुमार सिंह)

अति. महानिदेशक पुलिस,  
अपराध शाखा, राज. जयपुर।

प्रतिलिपि:- निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. पुलिस आयुक्त, जयपुर/जोधपुर।
2. समस्त महानिरीक्षक पुलिस, रेंज राजस्थान मय जी.आर.पी. जयपुर।
3. समस्त पुलिस उपायुक्त, जयपुर/जोधपुर।
4. समस्त जिला पुलिस अधीक्षकगण, राजस्थान मय जी.आर.पी. अजमेर/जोधपुर।
5. समस्त पुलिस अधीक्षकगण सी.आई.डी. (अपराध शाखा) राजस्थान जयपुर।
6. अतिरिक्त पुलिस अधीक्षक, सी.आई.डी. (सी.बी.) रेंज सैल जयपुर/जोधपुर/अजमेर/बीकानेर/उदयपुर/भरतपुर/कोटा।
7. अतिरिक्त पुलिस अधीक्षक, डिस्कॉम जयपुर/जोधपुर/अजमेर।
8. अतिरिक्त पुलिस अधीक्षक, (प्रशासन एवं पीआरसी) सी.आई.डी. (सी.बी.) जयपुर।

अति. महानिदेशक पुलिस,  
अपराध शाखा, राज. जयपुर।

ADK (C-1)

A.D. 25/3

30543  
25/12/14

IN THE HIGH COURT OF JUDICATURE FOR  
RAJASTHAN AT JAIPUR BENCH, JAIPUR.

S.B. Criminal Misc. Bail Application No. 15055 /2014

1. Smt. Guddi w/o Late Hari Mukat

2. Smt. Kalyani w/o Angad

Both by caste Mali, Resident of Village Bagora, Police  
Station Baharanvda Kalar, District Sawaimadhapur.

.....Petitioners

(At present confined in District Jail, Sawaimadhapur)

Versus

The State of Rajasthan

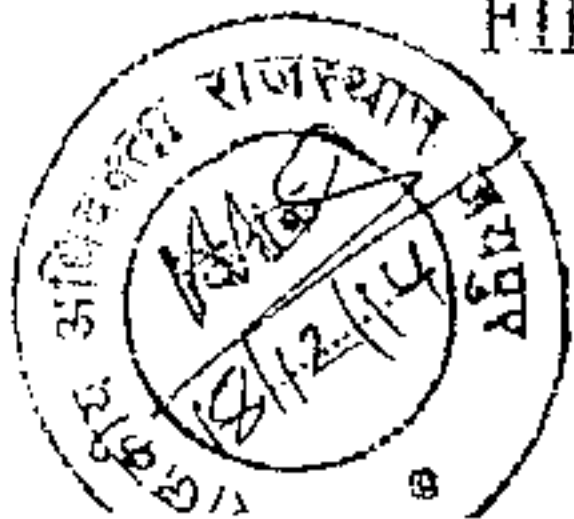
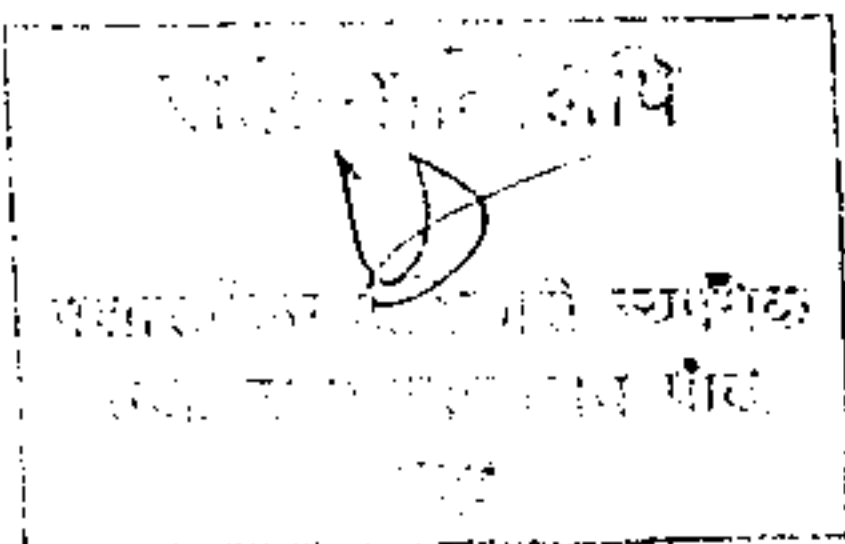
.....Non-Petitioner

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Urgent  
25/12/14



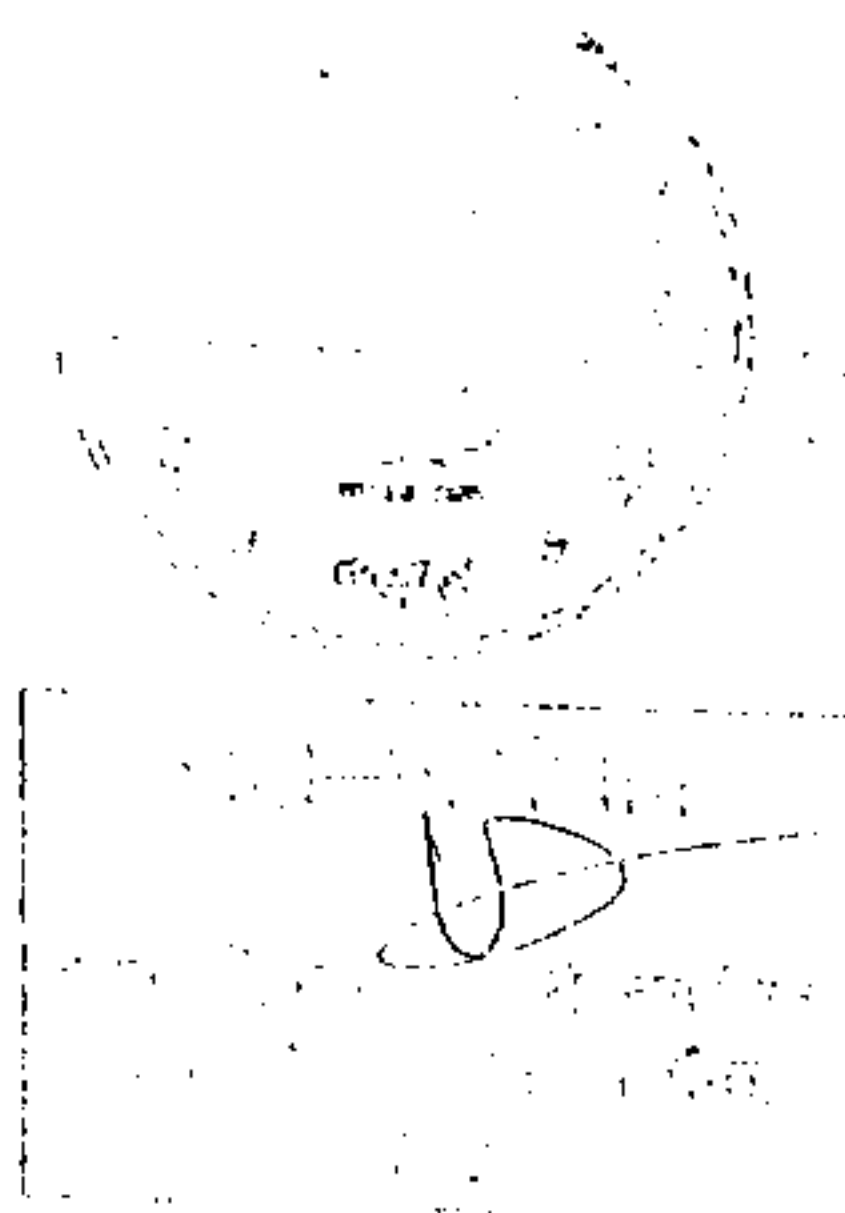
S.B. CRIMINAL MISC. BAIL APPLICATION  
UNDER SECTION 439 Cr.P.C. AGAINST THE  
ORDER DATED 6.12.2014 PASSED BY SHRI  
AJAY KUMAR OJHA, SESSION JUDGE,  
SAWAIMADHOPUR IN CRIMINAL MISC.  
BAIL APPLICATION NO. 619 / 2014 AND IN  
FIR NO. 62 / 2014 REGISTERED AT POLICE

Contd

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STATION BAHARANVDA KALAN,  
DISTRICT SAWAIMADHOPUR AND IN  
SESSION CASE NO. 148 / 2014 TITLED THE  
STATE OF RAJASTHAN VERSUS KALYANI  
AND OTHERS FOR THE OFFENCE UNDER  
SECTION 147, 148, 149, 323, 302 IPC.



**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAIPUR BENCH, JAIPUR**

**S.B. CRIMINAL MISC. BAIL APPLICATION NO.15055/2014**

**Smt. Guddi & Anr. vs. The State of Rajasthan**

**Date of Order: 12/03/2015**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE**

*Reportable*

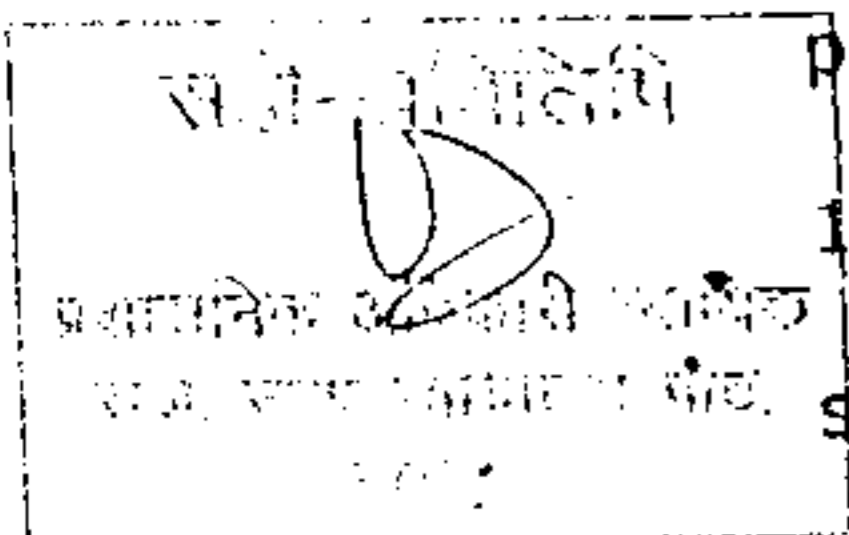
Mr. Tarun Jain, for the petitioners.  
Mr. N.S. Shekhawat, Public Prosecutor.  
Mr. Dinesh Kumar, SI/SHO, P.S. Bharawanda Kalan, Distt.  
Sawai Madhopur.  
Mr. Keshav Dev, SI/SHO, P.S. Kotwali, Sawai Madhopur.

Heard learned counsel for the parties.

After taking into consideration the facts and circumstances of the case as well as the nature of allegation against the petitioners, who are ladies, that they were alongwith the accused Angad and Dinesh and without expressing any opinion on the merits of the case, I deem it just and proper to enlarge the petitioners on bail.

Consequently, this bail application is allowed.

It is ordered that the accused-petitioners (1) Smt. Guddi W/o Late Hari Mukat and (2) Smt. Kalyani W/o Angad In F.I.R. No.62/2014, registered at Police Station Baharanvda Kalan, District Sawai Madhopur, shall be released on bail; provided each of them furnishes a personal bond of Rs. 1,00,000/- and two surety bonds of Rs. 50,000/- 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.



Section 173(8) Cr.P.C. then in that situation, the arrest of even Angad could not have been made without there being further evidence collected in the investigation, during the intervening period from the date of earlier challan on 21.10.2014, upto the arrest of Angad on 05.03.2015. There is nothing on record and as a matter of fact, it is admitted before the Court that no further evidence was collected during the investigation, before arrest of Angad on 05.03.2015. A question, which arises in such a situation is whether the arrest of Angad on 05.03.2015 can be said to be in accordance to law when challan against him was filed under Section 173(8) Cr.P.C. and no evidence is collected during further investigation. At the earlier stage the investigation was kept pending against him because by that time, as per the investigating officer, no evidence had come on record against him.

It is often found that investigating officers, nowadays, exercise their powers by filing challan against the accused persons under Section 173(8) Cr.P.C, despite of the fact that evidence against them is already on record. In garb of it, such investigating officers keep the accused persons free upto the time they feel like and later on arrest them, which includes principal offenders and file supplement challan from which it is revealed that no further evidence whatsoever is collected, during the intervening period when initially the investigation was kept pending under Section 173(8) Cr.P.C. Such an extra legal procedure; which is now being adopted by the investigating officers, needs to be immediately stopped by the highest level of



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CrIMB No.15055/2014

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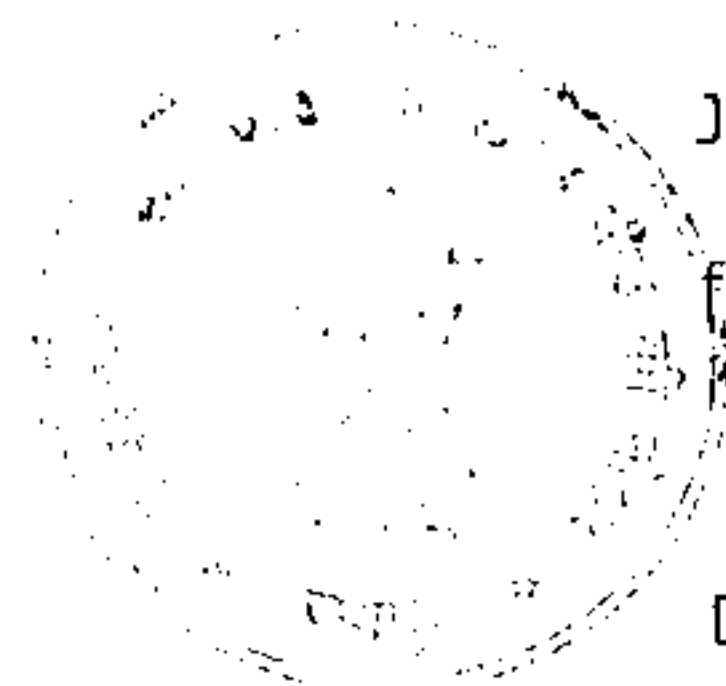
the department. In some cases such accused persons remain free, in the garb of investigation kept pending under Section 173 (8) Cr.P.C., for years together.

Therefore, the ADG (Crime) is directed to look into the matter and appropriate steps be taken against the defaulter. Further, he is directed to ensure that proper instructions/ guidelines are issued to the investigating officers in the entire State that once evidence is collected during investigation and a person is found to be an accused has not been taken in custody then challan be filed against them under Section 299 Cr.P.C. Thereafter, appropriate steps be taken by declaring them absconder and then proceedings with regard to attachment of property under Section 82 and 83 Cr.P.C. If any investigating officer violates such instructions/ guidelines, he shall be liable for departmental proceedings.

List this case on 30.03.2015.

A copy of this order be sent to the ADG (Crime), Jaipur for doing the needful with intimation to this Court, through fax forthwith.

Copies of the order be also sent to the Secretary, Department of Home, Government of Rajasthan and the Director General of Police, State of Rajasthan, through fax forthwith.



23/3/15  
tikani daiya/  
Item no.21

(RAGHUVENDRA S. RATHORE), J.

No. 2265 of 23-3-15  
Copy Forwarded To  
The Director General of Police, State of Rajasthan,  
Jaipur (fax)  
23/3/15  
Deputy Registrar (Dist.)