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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2348/2025**

MD. REHAN ABDULLAH

.....Petitioner

Through: Mr. Aditya Aggarwal and Ms. Shivani
Sharma, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for the State
alongwith SI Sunil Antil, P.S.-Special
Cell-SWR

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

25.09.2025

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1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No. 85/2021 dated 24.03.2021 for the offences punishable under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') and under Sections 483/411 of the IPC, registered at Police Station Special Cell.

2. Briefly speaking, per FIR, a secret information was received that one Md. Aslam Khan @ Menao, r/o Thoubal, Manipur, was involved in the illegal interstate supply of narcotic drugs in large quantities in Delhi/NCR and other states of India. To develop this information, surveillance was mounted, and sources were deployed.

2.1 On 23.03.2021, a secret source informed that Md. Aslam along with



his associate would come to Uttam Nagar, Delhi, in a Scorpio vehicle bearing number NL 01P 0205 to deliver a consignment of heroin/brown sugar near the Uttam Nagar East Metro Station. This information was recorded in the daily diary as per Section 42 NDPS Act, and a team was formed accordingly.

2.2 The team reached the location, but despite requests, no public witnesses agreed to join the raid. The staff was strategically deployed, and around 8:00 PM, the suspected vehicle was seen arriving with two persons. One of them, later identified as Md. Aslam, exited the vehicle carrying a checked bag, followed by another person, identified as Md. Rehan Abdullah, carrying a grey/black bag. Both were identified by the informer and kept under observation until about 8:15 PM, when they were apprehended. They were informed about the specific information and their legal rights under Section 50 NDPS Act, including the right to be searched before a Magistrate or Gazetted Officer, which they declined in writing. They were also offered to search the police party, which they declined. The police party conducted its own search in front of each other and nothing incriminating was found.

2.3 Subsequently, in the presence of a senior officer who arrived at the scene, searches of both accused were conducted. A brown packet wrapped in tape with a pungent smell was recovered from the co-accused/Md. Aslam's bag. A similar packet was found from Md. Rehan's shoulder bag. On questioning, both admitted that the packets contained heroin meant for rave parties in Delhi/NCR and other states. The substance tested positive for heroin using a field testing kit. The packet from co-accused/Md. Aslam weighed 2.630 kg (including packaging), and the one from the applicant weighed 2.539 kg (including packaging). Both accused admitted to long-



term involvement in drug trafficking and were found in illegal possession of heroin, thus committing offences punishable under Sections 21 and 29 of the NDPS Act. Thus, a FIR was registered and investigation ensued.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would *inter alia* argue on the grounds pleaded in the petition as below:

4.1 That even as per the case of the prosecution, the accused persons were apprehended while he was in a public place. It is submitted that it is inconceivable that no CCTV footage was obtained/ videography was done by the police officials while apprehending the petitioner or while seizing the illicit contraband. It is further submitted that in a modern world, when everyone have their own mobile phone which can capture the videos or photos, no videos or photos were taken by the police officials during the time of the raid and recovery. Reference has been made to the recent judgment rendered by this Court in ***Bantu Versus State Govt of NCT of Delhi*** in bail application No. 2287 of 2022, decided on 08.07.2024 wherein it was held that the investigating authorities shall understand the importance of such evidence to corroborate the alleged recovery with the accused person to avoid the foul play. Moreover, the Court has also given the weightage to the guidelines in The Drug Law Enforcement Field Officers' Handbook, issued by the Narcotic Control Bureau (NCB), Ministry of Home Affairs, Government of India and that it cannot be blatantly flouted by the investigating agency.

4.2 The learned counsel for the applicant states that this Hon'ble Court has granted the similar relief of regular bail in following judgements which



are:

4.2.1 ***Sanjay vs State Govt of NCT of Delhi***, in (Bail Application No. 3710/2023), decided on 22.01.2025.

4.2.2 ***Zakir vs State Govt of NCT of Delhi*** in (Bail Application No. 1418/2024) decided on 22.01.2025.

4.2.3 ***Seema vs State Govt of NCT of Delhi*** in (Bail Application No. 3391/2024) decided on 17.01.2025.

4.2.4 ***Rohan Malik Vs State Govt of NCT of Delhi*** in (Bail Application No. 4303/2024) decided on 13.01.2025.

4.2.5 ***Satish Kumar Vs State Govt of NCT of Delhi*** in (Bail Application No. 2849/2024) decided on 16.10.2025.

4.2.6 ***Sovraj Versus State Govt of NCT of Delhi*** in (Bail Application No. 2537 of 2023), decided on 08.07.2024.

4.2.7 ***Kanchaman Yonjan Versus State Govt of NCT of Delhi*** in (Bail Application No. 2845 of 2023), decided on 08.07.2024.

4.2.8 ***Ankit Sagar Versus State Govt of NCT of Delhi*** in (Bail Application No. 3047 of 2023), decided on 15.07.2024.

4.2.9 ***Mohd Munib Versus State Govt of NCT of Delhi*** in (Bail Application No. 3946 of 2023), decided on 15.07.2024.

4.2.10 ***Shivam Versus State Govt of NCT of Delhi*** in (Bail Application No. 3312 of 2023), decided on 15.07.2024.

4.2.11 ***Rafique Khan Versus Narcotics Control Bureau*** in (Bail Application No. 3603 of 2023), decided on 15.07.2024.

4.3 That the prosecution has not cited any independent witness to corroborate the alleged recovery of the contraband with the applicant even when the alleged recovery took place in crowded area in a public place near



the metro station. Reference in this regard has been made to the judgment rendered in *Sanjay vs State Govt of NCT of Delhi*(supra).

4.4 That the petitioner has already undergone a substantial period in incarceration of more than 4 years and 3 months and there are total of 16 prosecution witnesses and out of which only 7 witness have been examined so far. The trial will not be completed in near future and as a trite law accused cannot be detained for an indefinite period.

4.5 That the petitioner has clean past antecedents and has no case of any nature pending against him before any court of law and is a law-abiding citizen of India. The petitioner is languishing in Judicial Custody since 24.03.2021 and the chargesheet has already been filed and no purpose would be sub-served in keeping the petitioner behind the bars.

5. Learned APP for the State would oppose the bail plea arguing that the applicant deserves no indulgence from this Court as commercial quantity of heroin is involved in the incident and there remains a genuine risk of him absconding or tampering with the evidence.

5.1 She would further submit that the co-accused Md. Aslam Khan was granted interim bail by this Court but he did not surrender in time and is evading the judicial process.

6. Having heard, I am of the view that there may be some substance in certain arguments on merits addressed by the learned counsel for the applicant but the same are matter of trial. However, I am of the view that at this stage, in light thereof, it is a case for bail. Let us see how.

7. Section 37 of the NDPS Act restricts the grant of bail in cases involving commercial quantity and certain serious offences, requiring satisfaction of twin conditions. However, prolonged incarceration without



progress in trial amounts to an unjust deprivation of liberty, and in such situations, the legislative embargo against bail melts down.

8. In the present case, the applicant has been in custody for about 4 years and 6 months. He has no criminal antecedents of any kind. Further, the applicant has deep roots in society. Thus, the suspicion of flight risk or absconding is unfounded.

9. Investigation is over qua the applicant as the charge sheet has been filed. He is thus not required for any custodial investigation. The testimony of prosecution witnesses is being recorded. As far as tampering of the evidence is concerned, the same seems to be an unfounded suspicion since most of the evidence is documentary in nature, which has already been seized by the prosecution and is beyond the reach of the applicant. As regards influencing the witnesses, they are all officials of the prosecution and thus, it is an unfounded suspicion that she may try to reach out.

10. Not only the applicant has undergone inordinate incarceration since 24.03.2021 (4 years and 6 months) but even otherwise, given the snail's pace of the proceedings in the learned Trial Court, it may so happen that before the same concludes, the applicant may end up undergoing the entire sentence without being held guilty.

11. Be that as it may, trite as it may sound, until proved guilty the presumption is of the innocence, and therefore, giving benefit of the same, the applicant is entitled to be enlarged on bail, at this stage.

12. The applicant is a 26-year-old man who, at the crucial years of his career and continued preventive detention would jeopardize his career prospects for rest of the life. He has no criminal antecedents of any kind. Further, the applicant has deep roots in society. Thus, suspicion that the



applicant is likely to abscond, if granted bail, is unfounded.

13. Learned APP for the State since expresses the apprehension that in case granted bail, the applicant may also jump the same like his co-accused has done since he was accorded the concession of bail by the learned Trial Court. In view thereof, apart from other usual conditions, the learned Trial Judge while accepting the bail bonds shall ensure that instead of one, there are two sureties of the like amount.

14. Accordingly, the applicant is directed to be released on bail on his furnishing personal bond with two (2) solvent sureties of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court. In case, the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case vide instant order.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 25, 2025

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