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

CNR No. DLHC010057782026

+ **BAIL APPLN. 683/2026 and CRL.M.(BAIL) 360/2026**

PANKAJ KUMAR

.....Petitioner

Through: Mr. Rahul Raman with Ms. Surabhi Sahi, Advocates.

versus

THE STATE OF NCT OF DELHI Respondent

Through: Ms. Shubhi Gupta, APP along with SI Balram.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **01.09.2026**

1. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), corresponding to Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail in connection with FIR No. 565/2025, registered at Police Station Jahangir Puri, Delhi, for offences under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").
2. The case of the prosecution, is that on 12.05.2025, acting upon secret information, a police team of Police Station Jahangir Puri raided premises bearing H-1/364, Jahangir Puri, Delhi, and apprehended the applicant, Pankaj Kumar, along with co-accused Shiv Nath Sahni. A total of 27.754 kg of *ganja*, constituting a commercial quantity, was recovered from the room stated to be jointly occupied by them, and both were arrested on the same



day. Upon completion of investigation, a chargesheet came to be filed on 05.11.2025.

3. The applicant's earlier applications for regular bail came to be dismissed by the Special Judge (NDPS), North District, Rohini Courts, Delhi, vide orders dated 21.08.2025 and 17.01.2026, principally on the ground of the commercial quantity of the contraband and the rigours of Section 37 of the NDPS Act. The applicant has thereafter approached this Court, inter alia, on the ground of a subsequent and material change in circumstances, namely, his medical condition.

4. Counsel for the applicant submits that the applicant is seriously ill. It is submitted that the applicant has suffered an acute stroke, which has resulted in a paralytic attack affecting the right side of his body. It is contended that the applicant is innocent and has been falsely implicated, that he has undergone incarceration of more than one year, and that there is no other criminal case against him. It is, therefore, prayed that the applicant be enlarged on bail, particularly in view of his medical condition.

5. The application is opposed by the APP appearing for the State. It is submitted that the contraband recovered is 27.754 kg of *ganja*, which is a commercial quantity, and that the same was jointly recovered from co-accused Shiv Nath Sahni and the applicant. It is further submitted that the other co-accused, Anju @ Annu, has already been granted regular bail as no recovery was effected against her.

6. I have heard the counsels appearing for parties and perused the record.

7. The parameters governing the grant of regular bail in non-bailable



offences are well settled. In **Prasanta Kumar Sarkar v. Ashis Chatterjee**,¹ the Supreme Court held:

It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail...

8. The object underlying the grant of bail was explained by the Supreme Court in **Sanjay Chandra v. Central Bureau of Investigation**² in the following terms:

the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon.

9. The duration of incarceration and the likely progress of the trial are also material considerations at the stage of bail. In **State of Kerala v. Raneef**³, the Supreme Court emphasised that the delay in concluding the trial is an important factor to be taken into consideration while deciding an application for bail.

10. Insofar as offences involving commercial quantity under the NDPS Act are concerned, though Section 37 of the NDPS Act imposes stringent conditions upon the grant of bail, the Supreme Court has held that prolonged incarceration, coupled with delay in the trial, can, consistent with Article 21 of the Constitution, justify the grant of bail notwithstanding the said embargo. In **Mohd. Muslim @ Hussain v. State (NCT of Delhi)**,⁴ it was

¹ (2010) 14 SCC 496.

² (2012) 1 SCC 40.

³ (2011) 1 SCC 784.

⁴ 2023 SCC OnLine SC 352.



held that the grant of bail on the ground of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. Likewise, in ***Rabi Prakash v. State of Odisha***⁵, the Supreme Court held that prolonged incarceration generally militates against the fundamental right guaranteed under Article 21, and in such a situation the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

11. The serious medical condition of an accused is likewise a recognised ground for the exercise of discretion in favour of bail. In ***Salim Valimamad Majothi v. State of Gujarat***,⁶ the Supreme Court, having regard to the medical condition of the accused and the period of incarceration already undergone, enlarged the accused on bail in a case under the NDPS Act.

12. I have considered the submissions advanced by counsel for the parties and have perused the record. It remains undisputed that the charge is yet to be framed and that the trial is likely to take considerable time in its conclusion. The medical condition of the applicant also remains undisputed and stands reaffirmed by the report received from the jail.

13. The applicant further contends that he was merely a job seeker who had come from Bihar and was staying at the premises of co-accused Shiv Nath, without any knowledge of the contraband allegedly possessed by the co-accused.

14. Bearing in mind the overall facts and circumstances of the case, and more importantly the medical condition of the applicant, coupled with the fact that the charge is yet to be framed and the trial is likely to be prolonged,

⁵SLP (Crl.) No. 4169/2023, decided on 13.07.2023.

⁶2023 SCC OnLine SC 659.



the applicant is directed to be enlarged on regular bail, subject to such conditions as may be imposed by the trial Court.

15. The application stands disposed of. The pending application also stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 1, 2026

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