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

+ **BAIL APPLN. 1881/2026**

PRAVEEN @ PARVEEN

.....Petitioner

Through: Mr. Mohit Rana, Mr. Aditya Choudhry, Mr. Sidhant Verma, Mr. Himanshu Rohilla, Mr. Shivam Gaur, Ms. Sanjoli and Ms. Ambika Gupta, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for State.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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27.07.2026

1. The instant application has been filed by the applicant under Section 483 r/w Section 528 of the BNSS, 2024 seeking grant of regular bail in connection with FIR No.337/2022 registered at PS Special Cell, Rohini for offences punishable under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ["**NDPS Act**"] and 14 of the Foreigners Act, 1946.
2. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. It is contended that there are six accused persons in the case, out of whom three have already been enlarged on regular bail. In this regard, it is submitted that



the main accused, Umesh Singh, from whose possession the contraband was allegedly recovered, was granted bail by the learned Trial Court *vide* order dated 13.01.2026. It is further submitted that accused Jaipal was granted bail *vide* order dated 09.01.2025, while accused Mohan Babu was enlarged on bail by this Court *vide* Judgment dated 28.03.2026. It is, therefore, urged that only the applicant and the remaining two co-accused continue to remain in judicial custody. According to learned counsel, no recovery of any contraband has been effected from the possession of the present applicant.

3. It is further submitted that the trial is progressing at a slow pace. Out of the total 29 prosecution witnesses, only one witness has been fully examined, while only the examination-in-chief of another witness has been recorded. In these circumstances, it is contended that the conclusion of the trial is likely to take considerable time. Learned counsel further submits that, except for one pending criminal case under Section 420 of the IPC, no other criminal case, particularly under the NDPS Act, is pending against the applicant.

4. Learned APP for the State opposes the prayer for grant of regular bail and submits that the earlier bail application preferred by the present applicant was dismissed as withdrawn by this Court *vide* order dated 19.03.2024 and subsequently another bail application of the present applicant was dismissed by this Court on merits *vide* order dated 21.04.2025, which was subsequently assailed before the Supreme Court by way of Special Leave Petition (Crl.) No. 11004/2025 [“SLP”]; however, the said SLP also came to be dismissed *vide* order dated 30.07.2025. It is further contended that the material collected during the course of investigation, if appreciated in its proper perspective, clearly reveals the role attributed to the



present applicant and *prima facie* establishes his involvement in the alleged offence. It is, therefore, submitted that the applicant is not entitled to the grant of regular bail and the present application deserves to be dismissed.

5. I have considered the rival submissions and perused the material on record.

6. As per the Nominal Roll dated 21.07.2026, the applicant has remained in judicial custody for almost two year and six months. It is further reflected that the applicant was released on interim bail on five occasions and, on each occasion, surrendered before the jail authorities within the stipulated period without violating any of the terms and conditions of the interim bail. The Nominal Roll further indicates that no other case under the NDPS Act is pending against the applicant. Though one criminal case arising out of FIR No. 266/2019 is stated to be pending against him, the applicant has already been enlarged on bail therein.

7. As pointed out by the learned APP, the earlier bail application preferred by the applicant was dismissed on merits by this Court and the challenge thereto by way of SLP also came to be dismissed by the Supreme Court. The earlier order proceeded on the *prima facie* view that the applicant was an active participant in the alleged narcotic syndicate and that the rigours of Section 37 of the NDPS Act stood attracted. It is, however, well settled in ***Kalyan Chandra Sarkar v. Rajesh Ranjan***,¹ that while successive bail applications are maintainable, the Court is required to consider the reasons on which the earlier application was disposed of and to examine whether any subsequent circumstances justify taking a different view.

8. In the present case, subsequent to the rejection of the earlier bail



application, material developments have taken place. During the *interregnum*, the principal accused, Umesh Singh, as well as co-accused Mohan Babu Gupta have been enlarged on regular bail. The trial, though underway, has made little progress, inasmuch as only 2 out of 29 prosecution witnesses have been examined till date. These subsequent developments, which were not available for consideration while rejecting the earlier bail application, constitute fresh circumstances warranting an independent examination of the present application on its own merits.

9. Having found that fresh circumstances have arisen after the disposal of the earlier bail application, this Court is also required to examine the plea of parity. In ***Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana***,² the Supreme Court has held that though parity is a relevant consideration while deciding an application for bail, the same is not to be applied mechanically and the Court is required to undertake a comparative assessment of the role attributed to the applicant *vis-à-vis* the co-accused who have already been granted bail.

10. In the earlier order, this Court found that the role attributed to the present applicant was distinguishable from that of co-accused Jaipal and, therefore, declined to extend the benefit of parity. However, the factual position has since undergone a material change. The principal accused, Umesh Singh, from whose possession 3 kg of heroin was recovered, as well as co-accused Mohan Babu Gupta, from whose possession 360 grams of heroin was recovered, have also been enlarged on regular bail. Consequently, the role attributed to the present applicant is now required to

¹ (2004) 7 SCC 528

² (2021) 6 SCC 230



be assessed in comparison with all the co-accused who have been granted bail.

11. The comparative exercise mandated in **Ramesh Bhavan Rathod** (supra) would indicate that the allegations against accused Umesh Singh and Mohan Babu Gupta are qualitatively graver than those attributed to the present applicant. While Umesh Singh is alleged to have been found in possession of 3 kg of heroin and Mohan Babu Gupta is alleged to have been found in possession of 360 grams of heroin, the prosecution case against the present applicant principally rests on his alleged participation in the larger conspiracy and the other material collected during the course of investigation. In the changed factual scenario, where the aforesaid co-accused have already been enlarged on regular bail, this Court is of the considered opinion that the present applicant cannot be said to stand on a footing worse than them and is, therefore, entitled to invoke the principle of parity.

12. It is, however, equally true that the earlier order dated 21.04.2025 did not reject the applicant's prayer for bail merely on the question of parity. Upon a *prima facie* appreciation of the material collected during investigation, this Court had formed an opinion that the applicant was allegedly a part of an organised narcotic network and, consequently, held that the rigours of Section 37 of the NDPS Act stood attracted. The present application, therefore, also requires this Court to examine whether, notwithstanding the applicability of Section 37, the subsequent developments noticed hereinabove warrant a different view.

13. While considering the applicability of Section 37 of the NDPS Act, this Court cannot also lose sight of the fact that the principal accused,



Umesh Singh, as well as co-accused Mohan Babu Gupta, have since been enlarged on regular bail. Significantly, both the aforesaid co-accused were granted regular bail subsequent to the dismissal of the applicant's SLP by the Supreme Court, assailing the order dated 21.04.2025. These subsequent developments materially alter the factual backdrop in which the earlier order came to be passed and assume considerable significance while examining the continued applicability of the rigours of Section 37 of the NDPS Act to the present applicant

14. The applicability of the rigours contained in Section 37 of the NDPS Act, however, cannot be viewed in isolation. It is now well settled that while the twin conditions prescribed under Section 37 are required to be duly borne in mind, they cannot be interpreted in a manner so as to render illusory the constitutional guarantee of personal liberty and the right to a speedy trial under Article 21 of the Constitution of India. The statutory restrictions under the NDPS Act and the constitutional mandate under Article 21 are required to be harmoniously construed while considering a prayer for bail in an appropriate case.

15. In the present case, the applicant has remained in judicial custody for almost two years and six months. Although the trial has commenced, its progress has been rather slow, inasmuch as only 2 out of 29 prosecution witnesses have been examined till date. It is in this backdrop that the applicability of the constitutional guarantee of a speedy trial under Article 21 of the Constitution assumes significance while considering the continued operation of the embargo contained in Section 37 of the NDPS Act

16. The Supreme Court in the case of ***Rabi Prakash versus The State Of***



Odisha,³ has duly observed:

“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

[Emphasis supplied]

17. In **Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India**,⁴ recognised that while Section 37 of the NDPS Act imposes stringent conditions for the grant of bail, denial of bail coupled with prolonged delay in trial would result in continued deprivation of personal liberty without a timely adjudication of guilt, a consequence incompatible with the guarantee of a fair and speedy trial under Article 21 of the Constitution:

"15. On account of the strict language of the said provision very few persons accused of certain offences under the Act could secure bail. Now to refuse bail on the one hand and to delay trial of cases on the other is clearly unfair and unreasonable and contrary to the spirit of Section 36(1) of the Act, Section 309 of the Code and Articles 14, 19 and 21 of the Constitution. We are conscious of the statutory provision finding place in Section 37 of the Act prescribing the conditions which have to be satisfied before a person accused of an offence under the Act can be released. Indeed we have adverted to this section in the earlier part of the judgment. We have also kept in mind the interpretation placed on a similar provision in Section 20 of the TADA Act by the Constitution Bench in Kartar Singh v. State of Punjab [(1994) 3 SCC 569]. Despite this provision, we have directed as above mainly at the call of Article 21 as the right to speedy trial may even require in some cases quashing of a criminal proceeding altogether, as held by a Constitution Bench of this Court in A.R. Antulay v. R.S. Nayak [(1992) 1 SCC 225], release on bail, which can be taken to be embedded in the right of speedy trial, may, in some cases be the

³ 2023 SCC OnLine SC 1109

⁴ (1994) 6 SCC 731



demand of Article 21. As we have not felt inclined to accept the extreme submission of quashing the proceedings and setting free the accused whose trials have been delayed beyond reasonable time for reasons already alluded to, we have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt.”

[Emphasis supplied]

18. The Supreme Court in ***Union of India v. K.A. Najeeb***,⁵ held that statutory restrictions on the grant of bail, including those contained in special enactments such as Section 43-D(5) of the UAPA and NDPS Act, do not denude constitutional courts of their power to grant bail where continued incarceration results in a violation of the fundamental right to personal liberty and speedy trial guaranteed under Article 21 of the Constitution.

“12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 (“the NDPS Act”) which too have somewhat rigorous conditions for grant of bail, this Court in Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252] , Babba v. State of Maharashtra, (2005) 11 SCC 569 and Umarmia v. State of Gujarat, (2017) 2 SCC 731 enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.”

*“15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. **However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible***

⁵ (2021) 3 SCC 713



and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.”

[Emphasis supplied]

19. The aforesaid principle has been specifically applied to prosecutions under the NDPS Act by the Supreme Court in ***Mohd. Muslim @ Hussain v. State (NCT of Delhi)***⁶. The Court observed that an interpretation of Section 37 which results in an accused remaining in custody for years awaiting conclusion of trial would militate against the guarantee of a speedy trial under Article 21.

“22.....Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.”

20. As aptly observed by division Bench of this Court in ***Mohd. Hakim v. State (NCT of Delhi)***⁷, the Court must play the role of a “doctor” rather than a “coroner”, by protecting the right to a speedy trial before it is rendered illusory by prolonged incarceration, instead of recognising its violation after the constitutional injury has become irreversible. This principle squarely applies to the facts of the present case.

21. Applying the aforesaid principles to the facts of the present case, this Court finds that the applicant has remained in judicial custody for a substantial period. During this period, the trial has progressed at a slow pace and only 2 out of 29 prosecution witnesses have been examined and there is nothing on record to suggest that the delay is attributable to the applicant. Coupled with the subsequent grant of regular bail to the principal accused

⁶ (2023) 18 SCC 166

⁷ 2021 SCC OnLine Del 4623



and other co-accused, this Court is of the opinion that continued incarceration of the applicant would not be justified merely on account of the statutory embargo contained in Section 37 of the NDPS Act.

22. In view of the foregoing discussion, this Court is satisfied that the subsequent developments noticed, hereinabove, constitute a material change in circumstances warranting a view different from the one taken in the earlier order dated 21.04.2025. Accordingly, the present application is allowed.

23. The applicant is directed to be enlarged on regular bail on such terms and conditions as the learned Trial Court may deem fit to impose.

24. Pending applications, if any, also stands disposed of.

25. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.

26. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.

PURUSHAINDR KUMAR KAURAV, J

JULY 27, 2026

Nc/SA