



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: May 07, 2026

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Pronounced on: May 29, 2026

+ BAIL APPLN. 4669/2025, CRL.M.A. 36000/2025

ROBERT SENGOZI

.....Applicant

Through: Mr. Tanvir Quiser, Advocate

Versus

CUSTOM T 3 IGI AIRPORT NEW DELHI

.....Respondent

Through: Mr. Puneett Singhal, SPP for
Customs & CGST

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present application under *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the applicant, namely Robert Sengozi S/o Sengonzi seeks grant of regular bail in connection with SC Case No.621/2022 registered at Police Station IGI Airport, New Delhi, under *Sections 21/23* of the Narcotic Drugs and Psychotropic Substances Act, 1985².

2. *Succinctly put*, as per prosecution story, on 04.02.2022, applicant, a Ugandan national, was intercepted by the respondent while he attempted to exit through the Green Channel. Initially, the applicant denied carrying any contraband, however, since his behaviour appeared suspicious, he was taken to the Customs Preventive Room and served notices under *Section*

¹ Hereinafter referred to as '**BNSS**'

² Hereinafter referred to as '**NDPS Act**'



102 of the Customs Act, 1962 and *Section 50* of the NDPS Act in the presence of independent *panch*/ witnesses. During further inquiry, the applicant voluntarily admitted that he had ingested capsules containing narcotic substances in his body, whereafter, he first ejected 18 capsules at the airport and was then taken to Dr. Ram Manohar Lohia Hospital, New Delhi, where he subsequently ejected 12 additional capsules under medical supervision. Thus, a total of 30 capsules containing white powdery substance were recovered, which was later tested positive for '*Heroin*'. Thereafter, the contraband and packing material were seized under the provisions of the NDPS Act and the accused was eventually arrested on 14.02.2022.

3. In these facts, this Court has heard learned counsel for the applicant and learned SPP for Customs.

4. At the very outset, after hearing the arguments advanced by both sides and upon perusal of case file and documents on record, this Court finds that the contentions raised by applicant in the present bail application are either already dealt with, in considerable detail, by the learned Court below or pertain to issues which are matters for trial and can only be examined on the basis of evidence.

5. Be that as it may, the prosecution has allegedly recovered 382 *grams* of '*Diacetylmorphine*', commonly known as '*Heroin*', from the applicant in the form of 30 capsules ingested by him, which is far in excess of 250 grams and falls within the category of commercial quantity, thereby invoking the rigours of *Section 37* of the NDPS Act. As such, this Court is required to satisfy itself about the existence of "*reasonable grounds*" for believing that the applicant is not guilty of the alleged offence and that he



is not likely to commit any offence while on bail. As held by the Hon'ble Supreme Court in *Union of India v. Ram Samujh*³, *Union of India v. Ajay Kumar Singh*⁴, *Union of India v. Vigin K. Varghese*⁵, and much recently in *State of Punjab v. Sukhwinder Singh @ Gora*⁶, the aforesaid conditions are not mere empty formalities, but constitute a legislative mandate which has to be considered in cases involving commercial quantity and can only be relaxed upon careful appraisal of the material and not as a matter of course.

6. The facts herein reveal that there is sufficient material against the applicant who was intercepted at IGI Airport, New Delhi while attempting to exit through the Green Channel. More so, the applicant himself *admitted* that he had ingested capsules of narcotics substance and pursuant whereof, a total of *30 capsules* containing *382 grams* of white powdery substance, which upon testing, found positive for '*Heroin*', were expelled/ recovered from his body. Consciously carrying of the said contraband in his body for no reason by the applicant, who is a foreign national, raises more than a doubt in the mind of this Court. This Court cannot believe the claim of the applicant that he has been falsely implicated.

7. Regarding service of Notice under *Section 50* of the NDPS Act, since the same, *admittedly*, bears the signature of the applicant, who himself opted to be searched before a Gazetted Officer, and whereafter the search was conducted before Shri D.K. Sinha, Air Customs Superintendent, *prima facie* there cannot be any doubt qua the same. Moreover, as held in

³ (1999) 9 SCC 429

⁴ 2023 SCC OnLine SC 346

⁵ 2025 SCC OnLine SC 2440

⁶ 2026 INSC 411



State of Punjab v. Baldev Singh⁷ and ***Vijaysinh Chandubha Jadeja v. State of Gujarat***⁸, compliance of *Section 50* of the NDPS Act is a matter of trial. That being so, this Court is not delving into the same.

8. Though there is a delay of around four months in drawing the samples and forwarding the same to the CFSL from the date of arresting the applicant, however, this does not *ipso facto* vitiate the case of prosecution unless the applicant is able to demonstrate as to how any prejudice has been caused to him and/ or there is a break in chain of custody and/ or evidence of tampering, which the applicant has failed to show at this stage. Interestingly, the order of learned Metropolitan Magistrate, Dwarka Court dated 07.06.2022, when samples were drawn before it pursuant to *Section 52A* application and the FSL Report both *prima facie* confirm that seals were found intact. Even otherwise, as held by Hon'ble Supreme Court in ***Narcotics Control Bureau v. Kashif***⁹ any lapse or irregularity in compliance with the procedure under *Section 52A* of the NDPS Act, by itself, does not vitiate the proceedings. Such issues, once again, are essentially matters of evidence which are to be examined during trial and cannot be conclusively determined at the stage of consideration of the application for bail.

9. Insofar as the contention regarding prolonged incarceration of the applicant and violation of his rights to speedy trial is concerned, the applicant is stated to be in custody for approximately *four years* since his arrest on 14.02.2022, however, as evident from the bail dismissal order dated 29.10.2025 passed by the learned Court below, as many as *eleven*

⁷ (1999) 6 SCC 172

⁸ (2011) 1 SCC 609

⁹ 2024 INSC 1045



witnesses have already been examined, as compared to only *one* when the first bail application came to be rejected 23.02.2024. On these facts, it cannot be said that the trial is either stagnant or that there is any inordinate delay, much less on the part of the prosecution as to warrant relaxation of the statutory rigours of *Section 37* of the NDPS Act. Even otherwise, the Hon'ble Supreme Court in ***Vigin K. Varghese (supra)*** and ***Sukhwinder Singh @ Gora (supra)*** has clearly held that long incarceration and the anticipated time required to complete the trial cannot, in isolation, be treated as decisive factors so long as the twin conditions under *Section 37* of the NDPS Act are not satisfied.

10. Viewed thus, the rigours of NDPS Act are clearly attracted, and the twin conditions of *Section 37* of the NDPS Act are not satisfied in the present case to release the applicant on bail. The aforesaid issues, as such, fade into insignificance for consideration, at this stage.

11. Furthermore, since the applicant is a *foreign national* and may prove to be flight risk, especially when the alleged offence involves a large quantity of contraband, there are no grounds made out for granting bail to the applicant, at this stage.

12. Accordingly, the present bail application along with pending applications, if any, is dismissed.

13. Needless to say, any observations made herein on the merits of the matter are purely for the purposes of adjudicating the present application and shall not be construed as expressions on the merits of the matter.

SAURABH BANERJEE, J.

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