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

+ **BAIL APPLN. 316/2025**

SHAILESH KUMAR

.....Petitioner

Through: Mr.Hasim Alam, Ms.Khushi A.
Ayubi and Mr.Vikraal Pandey,
Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms.Richa Dhawan, APP for the State
alongwith SI Arjun Singh and SI Om
Prakash, P.S.-ANTF, Crime Branch

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

12.09.2025

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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. 255/2023 dated 24.10.2023 for the offences punishable under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), registered at Police Station Crime Branch, Delhi.

2. Briefly speaking, per FIR, on 24.10.2023, at about 8:45 AM, ASI Sandeep Kumar received secret information that the applicant would supply heroin/smack to one Zeeshan between 9:15–9:30 AM at Bhainsowali Gali, Shamshan Ghat Road. The information was conveyed to Inspector Jai Bhagwan and ACP Arvind Kumar, who directed immediate legal action. A raiding team was formed, and despite attempts, no public witnesses joined.

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At about 9:25 AM, applicant and Zeeshan met near Old C-81/New D-81, exchanged a waxy packet and a plastic packet, and were apprehended at 9:30 AM. Zeeshan was served notice under Section 50 NDPS Act, declined his rights. Upon search, 500 grams of heroin was recovered from him, sealed as parcel 'A.' The applicant was also served notice under Section 50 NDPS Act, declined his rights, and upon search of his turquoise bag, ₹1,50,000 (three bundles of ₹50,000) was recovered, sealed as parcel 'B.' Both parcels were seized under seal 'SK,' seal handed to HC Nihal, and seizures documented.

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

4. Learned counsel for the applicant would submit that he is a law-abiding citizen with deep societal roots, is innocent, and has been falsely implicated, having no relation with the co-accused. His arraignment rests solely on a disclosure statement, inadmissible under ***Tofan Singh v. State of Tamil Nadu (2020)***.

4.1 He would also submit that no conscious possession or conspiracy can be attributed to him, as there is no proven connection with co-accused Zeeshan Ali or Dilshad @ Nanhe. Reliance is placed on ***Galiv Hussain v. State (2023)***, ***Dilbagh Singh v. DRI (2009/2002)***, ***Kamaljeet Singh v. H.K. Pandey (2005)***, ***Abul Kalam @ Sultan v. State (2024)***, and ***Bantu v. State (2022)***, where in similar circumstances bail was granted.

4.2 Learned counsel would further submit that the prosecution has failed to establish links through CDRs, WhatsApp, Instagram, or calls, as the Instagram ID cited does not match the applicant's number, and the bank transaction relied upon predates the alleged recovery. Recovery of



₹1.5 lakh cannot alone establish culpability, particularly as no videography, photography, or independent witnesses supported the seizures.

4.3 The applicant has been in custody since 24.10.2023, with charges framed on 24.08.2024, but only 2 of 22 witnesses examined, indicating delay in trial. His custodial interrogation is no longer required, and he undertakes full cooperation, non-tampering of evidence, and regular court appearance. No similar bail application is pending elsewhere.

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 psychotropic substances is involved in the incident and there remains a genuine risk of him absconding or tampering with the evidence.

5.1 Moreover, she would state that the number of the applicant was saved on the mobile of the co-accused Zeeshan Ali as 'Vakil Sahab'.

5.2 Moreover, it is submitted that the applicant was in touch with the co-accused Zeeshan Ali on social media platforms including WhatsApp and Instagram to facilitate the criminal activities.

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

7. The applicant has no other criminal involvement and the only basis for his arraignment is, what at this stage seems, a disclosure statement, which his learned counsel urges is inadmissible per se, unless there is any other corroborative material. There is no evidence which supports charges of conscious possession or conspiracy, as there is no proven link with co-



accused Zeeshan Ali or Dilshad @ Nanhe. There are no independent witnesses or photographic/videographic evidence.

8. The applicant was arrested on 24.10.2023 and has already remained in custody for a period of approximately 1 year and 11 months, and the progress of the trial has been at snail's pace. This prolonged incarceration, combined with the pace of proceedings, is also a contributory factor in the present case for granting bail.

9. The applicant statedly has deep roots in the society. Moreover, he remained on interim bail for a period of one month (from 27.05.2024 to 26.06.2024), where no misconduct was reported. Hence, the suspicion of absconding or flight risk is unfounded.

10. Applicant is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

11. Moreover, with respect to the learned APP argument that the applicant was in touch with the co-accused Zeeshan Ali, has been controverted by the learned counsel for the applicant stating that the said co-accused has been enlarged on bail vide an order dated 06.09.2025 passed by the learned Trial Court. Hence, the counsel seeks parity on the aforesaid ground.

12. The applicant is in the prime of his age being 28 years old and has his entire career ahead of him, leading to his future opportunities getting hampered. One of the primary objects of bail is merely to secure the



presence of the accused during trial. The applicant statedly has no criminal antecedents and poses no flight risk.

13. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety 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.

14. 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. 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. Accordingly, the bail application alongwith pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 12, 2025

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