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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 619/2025 & CRL.M.A. 4368/2025**
PARVEZ ALAM ALIAS JAVED ALIAS DOCTORPetitioner

Through: Mr. Vikram Hegde, Advocate.
versus

STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Amit Ahlawat, APP.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **01.05.2025**

1. The present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in FIR No. 147/2022 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985³, registered at P.S. Crime Branch, Delhi. Following investigation, the Applicant has been charge-sheeted under Sections 21, 25 and 29 of the NDPS Act. Charges have since been framed against him under Sections 29 and 21(c) of the NDPS Act.

2. The case prosecution, is summarised as follows:

2.1. On 22nd July, 2022, while gathering information about drug traffickers in North East, Shahdara & East District, Delhi, Inspector Jai Bhagwan received a tip-off about one Naseem Burkazi, an Afghan national who

¹ "BNSS"

² "Cr.P.C."

³ "NDPS Act"



supplied the contraband Heroin in Delhi and NCR. The informer disclosed that Naseem would pass through Maharishi Valmiki Marg around 11:10AM to 11:30AM to deliver a large quantity of Heroin.

2.2. The information was recorded in accordance with Section 42 of the NDPS Act and conveyed to ACP, Anti-Narcotics Task Force, Crime Branch, Delhi over the phone. The ACP spoke to the informer directly, verified the input, and granted permission to initiate legal proceedings. A raiding team was then constituted, and after completing the requisite formalities, the team proceeded to Maharishi Valmiki Road near the CVD Ground. Attempts were made to involve public witnesses, but all declined participation citing personal constraints.

2.3. At approximately 11:25 A.M., acting on the informer's identification, the police intercepted Naseem Barkazai, who was in possession a cloth-like bag. He was apprised of his rights, including the option of being searched before a nearby Gazetted Officer or Magistrate. He was also informed that he had the right to search the members of the raiding team. However, he declined both these rights, a fact was duly recorded. A notice under Section 50 of the NDPS was drawn and served on him. Thereafter, upon search, 3 Kgs of Heroin were recovered from his possession, and he was arrested.

2.4. During interrogation, Naseem disclosed his role in an international drug smuggling ring operated by a person named Haji from Afghanistan. He claimed to have been instructed to deliver the recovered consignment to his associate, the present Applicant, Parvez Alam @ Doctor. According to his statement, if he failed to respond to Haji's calls, Haji would contact Parvez directly and either have him abscond or arrange for the contraband's destruction. Acting on this information, a separate team was dispatched to



apprehend the Applicant.

2.5. Acting on the information provided by Naseem, the raiding team arrived at the Applicant's residence. After completing legal formalities, including service and explanation of a Section 50 NDPS notice, the Applicant declined the option of being searched before a magistrate. The ACP was thereafter summoned to the spot, and in his presence, the Applicant was apprehended from his residence. A search of the bag in his possession was then conducted. This led to recovery of 7.4 Kgs of Heroin along with cash amounting to INR 1,25,000/-. The recovered cash as well as the recovered contraband were sealed in accordance with prescribed procedures and deposited in the Malkhana of the Crime Branch, in compliance with Section 55 of the NDPS Act.

2.6. The Applicant was formally arrested at 4:30 A.M. on 23rd July, 2022. An arrest memo was prepared, and three mobile phones were seized from his person.

2.7. During further interrogation, both accused reiterated their involvement in an international drug trafficking operation allegedly orchestrated by Haji from Kabul. The FSL confirmed that the recovered substance tested positive for Heroin.

2.8. Analysis of the Applicant's mobile phone revealed extensive WhatsApp communication between him, Naseem, and Haji. The chat records indicated that Haji coordinated drug deliveries through voice and text exchanges. A call made on 19th July, 2022, along with other messages exchanged on 20th and 22nd July, suggested that the Applicant and co-accused were acting in concert, under Haji's directions, to distribute narcotic substances in Delhi.



2.9. After completion of investigation, the chargesheet and supplementary charge sheets have been filed before the Trial Court. Charges have been framed against the Applicant under Sections 29 and 21(c) of the NDPS Act and the trial is currently at the stage of prosecution evidence wherein so far, 11 out of 28 prosecution witnesses have been examined.

2.10. The record disclosed that the Applicant is previously involved in another case being FIR No. 95/2014 under Section 21 of the NDPS Act, registered at P.S. Crime Branch. Moreover, he has already been booked under the Prevention of Illicit Traffic in Narcotics and Psychotropic Substances Act, 1988, which proceedings are pending before this High Court.

2.11. The Applicant's prior bail application before the Trial Court was dismissed as withdrawn on 9th September, 2024. Additionally, the bail application of the co-accused Nasim was dismissed on merits by the trial Court on 9th December, 2024.

2.12. In view of the recovery of 7.4 Kgs of Heroin, a quantity well in excess of the commercial threshold, the embargo contained in Section 37 of the NDPS Act stands squarely attracted.

3. Counsel for the Applicant advances the following grounds in support of the plea for bail:

3.1. The Applicant has been falsely implicated in the present case and asserts that the contraband allegedly recovered from his premises was, in fact, planted by the investigating agency.

3.2. No videography was conducted during the raid, thereby casting doubt on the veracity of the seizure. Additionally, despite the raid having been conducted in a residential locality, no independent public witness was joined



in the proceedings, an omission that undermines the credibility of the prosecution's case.

3.3. The Applicant was taken into custody several hours before the time when he was shown to be apprehended. He attributes this false implication to prior hostility with certain police officials, specifically Inspector Devinder Yadav, Inspector Rakesh Duhan, and ACP Anil Sharma, who allegedly orchestrated the planting of narcotics at his residence. In support of this allegation, the Applicant had moved an application under Section 91 Cr.P.C. on 10th November, 2022 before the Trial Court, seeking disclosure of all General Diary (GD) entries and Call Detail Records (CDRs) of the aforementioned officers for the relevant dates. The Applicant also placed on record DD Entry No. 118A of P.S. Crime Branch, which purportedly exposes procedural irregularities. Taking note of the said entry, Additional Sessions Judge, in the order dated 10th November, 2022, observed that the said GD entry appeared to have been withheld from the Court record. In response, the State submitted that a handwritten intimation under Section 42 of the NDPS Act, dated 22nd July, 2022, was indeed available and made by Inspector Devinder Yadav.

3.4. This demonstrates that the Applicant was arrested on 22nd July, 2022, prior to the time mentioned by the police in their documents. Therefore, any recovery from the house of the Applicant subsequent to such illegal arrest is suspect and ought not to be considered at this stage. The Applicant has also not been provided with sufficient information pertaining to his arrest, recovery or the allegations levied against him.

3.5. The Respondent have not been able to trace the alleged kingpin of the drug racket – Haji. The only connection between the Applicant and Haji is



that his number was saved on the Applicant's phone.

3.6. The Applicant has been in the custody of NCB for over 2.5 years. The investigation is complete and the chargesheets have been filed. Presently, only 11 witnesses out of 28 have been examined. The conclusion of the trial will take substantial time and therefore the Applicant's long period of incarceration and the delay in trial infringes the Applicant's right under Article 21 of the Constitution of India.

4. On the other hand, Mr. Amit Ahlawat, APP for State, strenuously opposes the present bail application on the following grounds:

4.1. The recovery of 7.4 Kgs of Heroin from the Applicant's premises, along with ₹1.25 Lakhs in cash, clearly brings the case within the ambit of "commercial quantity" under the NDPS Act. This recovery is not speculative but is based on credible, specific intelligence received from co-accused Nasim, who disclosed that the Applicant was not only storing but was also allegedly involved in the processing and supply of narcotics from his residence. Such recovery attracts the bar under Section 37 of the NDPS Act, and the Applicant has failed to meet either of the twin conditions stipulated therein.

4.2. As to the contention of the Applicant that the drugs were planted on him and that he was arrested before the time mentioned in the chargesheet, it must be noted that the GD Entry No. 118A dated 22nd July, 2022 was not made a relied upon document in the chargesheet and therefore, cannot be construed to undermine the case of the prosecution. Furthermore, the Call Detail Records of the concerned police officials have already been placed on record through a supplementary chargesheet. The arrest, was carried out after due compliance with all statutory formalities, including issuance of the



notice under Section 50 of the NDPS Act. The Applicant, having declined to be searched before a Magistrate or Gazetted Officer, was searched in the presence of the ACP, resulting in the substantial seizure of contraband.

4.3. Three mobile phones were recovered from the Applicant's possession. The extracted data, including WhatsApp call and message records, demonstrate that the Applicant was in active contact with the co-accused and the alleged kingpin based in Afghanistan. These communications, clearly reveal the Applicant's complicity in a broader transnational narcotics trafficking syndicate. The Applicant's previous involvement in another NDPS case and his booking under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, add to the apprehension that, if released, he is likely to interfere with evidence or intimidate witnesses.

4.4. The drug menace is affecting the entire society, and it is especially targeting the younger generation. Illicit money is being used for promoting drug trafficking and substantial amounts of illegal money is being generated from this trade. The issue of drug trafficking is a serious offence, and the persons involved in this illicit trade are destroying the social fabric of society.

5. The Court has considered the aforementioned contentions. It is noted that the Applicant had earlier moved a bail application before the Trial Court, which was withdrawn without inviting a decision on merits. Consequently, no opinion was expressed by the Trial Court on the substance of the matter. Nevertheless, since the Applicant has pressed the present petition on the ground that his continued incarceration infringes upon his personal liberty, this Court has undertaken an independent examination of the case materials



and the record. While the Applicant has sought to dispute the legitimacy of the recovery, the material placed on record, at this stage, *prima facie* reflects a seizure of 7.4 Kgs of Heroin from his residence, an amount significantly exceeding the commercial quantity threshold of 250 grams under the NDPS Act. Therefore, the twin conditions of Section 37 of the NDPS Act are squarely attracted, i.e., (i) that there are reasonable grounds to believe that he is not guilty of the alleged offence, and (ii) that he is not likely to commit any offence if released on bail.

6. On a *prima facie* analysis of the case material on record, the prosecution appears to have built a coherent chain of circumstances that *prima facie* links the Applicant to the recovery. The contraband was recovered from the Applicant's premises following specific disclosure by a co-accused, who was himself apprehended with 3 Kgs of Heroin earlier that day. It is not a case where the information is vague or general; rather, the location and identity of the Applicant were specifically provided by the co-accused, leading to a recovery that speaks for itself. Additionally, a cash amount of ₹1.25 Lakhs was seized from the Applicant at the time of search, for which no plausible or legal explanation has been forthcoming.

7. Further, the analysis of digital evidence *prima facie* reveals WhatsApp communications connecting the Applicant to the co-accused and to a third individual allegedly operating from Afghanistan. The pattern of these communications, including missed conference calls and messages regarding delivery of contraband, appears to reinforce the prosecution's allegation that the Applicant was part of a transnational narcotic trafficking ring. These digital trails, when read with the physical recovery, fortify the prosecution's claim of an ongoing conspiracy involving the Applicant.



8. The plea of false implication owing to personal enmity with law enforcement is unsubstantiated. Beyond a general assertion of animosity and reliance on one DD entry that is not part of the chargesheet, the Applicant has not laid any concrete material to substantiate his claim that the recovery was planted or that the arrest was manipulated. These allegations may be explored during trial, where evidence from both sides will be tested. At this stage, the assertion per se does not dislodge the presumption arising from the recovery itself.

9. The absence of videographic documentation of the search, coupled with the non-joining of any independent witness despite the search being conducted in a residential neighbourhood, is indeed a matter of legitimate concern. However, in the framework of offences under the NDPS Act, particularly where commercial quantities are involved, such procedural lapses, though not insignificant, do not automatically vitiate the recovery or entitle the accused to bail at the pre-trial stage. The safeguards under the Act are indeed mandatory, but their alleged non-compliance must be tested at trial through proper evidentiary scrutiny. At this stage, what weighs with the Court is that the search was conducted in the presence of a gazetted officer, and that the Applicant was duly served with a notice under Section 50 of the Act, which he refused to avail. These factors, coupled with the quantity of contraband allegedly recovered and other corroborative material such as digital evidence, prevent the Court from recording satisfaction that the Applicant is not guilty of the alleged offence as required under Section 37(1)(b)(i).

10. As regards the second limb—whether the Applicant is unlikely to commit an offence while on bail, there is material that weighs against the



Applicant. He has been previously booked in another NDPS case being FIR No. 95/2014 and is currently facing proceedings under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. These factors collectively militate against the inference that the Applicant poses no risk of reoffending. This Court is therefore unable to record the satisfaction mandated under Section 37(1)(b)(ii).

11. The Court is also not unmindful of the constitutional mandate under Article 21, which guarantees the right to personal liberty. However, that right must be balanced against the societal harm posed by narcotic offences, the volume of contraband recovered, and the overarching public interest in curbing organised drug trafficking. In the present case, the balance tilts against the grant of bail.

12. In light of the foregoing, the Court finds no merit in the present petition and the same is dismissed along with pending application.

SANJEEV NARULA, J

MAY 1, 2025

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