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

+ **BAIL APPLN. 718/2025**

RAJ KUMAR

.....Applicant

Through: Mr. Rahul Sharma, Mr. Deepak Ghai, Ms. Richa Tiwari, Mr. Vipin Tokas, Mr. Raman Dutt Bali, Ms. Divya Attri, Ms. Neetu Sahani, Ms. Asha Rani and Ms. Indu Bala, Advs.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Ms. Richa Dhawan, APP for the State with SI Vikas Kuhar, Special Cell NR & STF Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.05.2025**

1. The present application is filed seeking regular bail in FIR No. 164/2021 dated 24.06.2021, registered at Police Station Special Cell, for offences under Sections 21/29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 ('**NDPS Act**').
2. It is alleged that certain mobile numbers were kept under surveillance and were lawfully intercepted. During the said interception, users of those mobile numbers were suspected to be indulged in drug trafficking activities in Delhi and Punjab.
3. It is alleged that on 23.06.2021, secret information was received that one person namely- Banto would come near Chander Vihar, Uttam Nagar to receive supply of Heroin (hereafter '**contraband**') from African nationals.

BAIL APPLN. 718/2025

Page 1 of 5



4. It is alleged that at around 02:55 PM, Banto came to the spot with her husband (the present applicant) on a two-wheeler whereafter two African nationals also arrived and stopped their vehicle near the two-wheeler of the applicant.

5. It is alleged that a white polythene was handed over by one of the African nationals to the present applicant, which was handed over by him to Banto and one green polythene was handed over by Banto to the African nationals. All the four persons were apprehended.

6. It is alleged that the white coloured polythene which was recovered from Banto contained 500 grams of Heroin, and the green polythene contained three bundles of ₹500/- denomination.

7. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case only for the reason that he was married to Banto. He submits that even per the case of the prosecution, the secret information received was in regard to the purchase of contraband by Banto and the applicant was only accompanying her.

8. It is pointed out that the bail application filed by the applicant on an earlier occasion was dismissed by this Court *vide* order dated 23.07.2024, with liberty to file afresh if the trial does not conclude within a period of 5 to 6 months. On being asked, it is informed that only 04 out of 24 witnesses have been examined till date and thus, the conclusion of trial is likely to take considerable period of time.

9. After the completion of investigation, the chargesheet has already been filed before the learned Trial Court. It is the case of the applicant that he was only accompanying accused Banto and



cannot be fastened with any responsibility for his actions. The secret information also stated that the accused Banto would be coming to take supply of contraband. The seizure of the contraband has also not been witnessed by any independent person despite being carried out in a public place.

10. The applicant was arrested on 24.06.2021 and has spent a substantial period of time in custody. Given that there are around 20 witnesses left to be examined, speedy trial in the present case does not seem to be possible. The trial is likely to take a considerable amount of time to conclude. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable amount of time.

11. The Hon'ble Apex Court in the case of ***Man Mandal & Anr. v. The State of West Bengal: SLP(CRL.) No. 8656/2023*** had granted bail to the petitioners therein, in an FIR for offences under the NDPS Act, on the ground that the accused had been incarcerated for a period of almost two years and the trial was likely going to take considerable amount of time

12. The Hon'ble Apex Court in ***Rabi Prakash v. State of Odisha : 2023 SCC OnLine SC 1109***, while granting bail to the petitioner therein observed as under :

"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.”

13. The applicant is stated to be of clean antecedents.
14. Therefore, without commenting further on merits of the case, this Court considers it apposite to grant bail to the applicant.
15. The applicant is, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:
 - a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
 - b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
 - c. The applicant shall appear before the learned Trial Court as and when directed;
 - d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
 - e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
16. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of



bail.

17. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

18. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 29, 2025

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