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

+ **BAIL APPLN. 1089/2025**

VINOD KUMAR

.....Petitioner

Through: Mr. Pramod Kumar and Mr. Avdhesh
Kumar Advocates

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State
with SI Praveen Sharma, Spl. Staff
North

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

28.08.2025

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1. The applicant is before this Court having remained under incarceration since 29.05.2023, for a period of 2 years and 3 months, seeking indulgence of this Court for grant of bail during pendency of the trial in criminal proceedings arising out of FIR No. 290/2023 dated 29.05.2023 for alleged offences under Sections 18/29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kashmeri Gate, Delhi.

2. Per FIR, on 28.05.2023, based on secret information, Special Staff North District, Delhi, formed a raiding team to apprehend Vinod Kumar and Vipin Kumar, both active members of an interstate drug syndicate. At about 7:20 PM, both accused were apprehended.



2.1 After being informed of their legal rights under Section 50 NDPS Act, they refused to be searched before a Magistrate or Gazetted Officer. During the search, 2.795 kg of opium was recovered from Vinod Kumar's bag, and 514 g of opium was recovered from Vipin Kumar's knee cap. In total, 3.309 kg of opium was seized. The contraband was sealed, seized, and deposited as per procedure.

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 the applicant was arrested on 29.05.2023 and is under incarceration ever since. He would submit that, in the present case, co-accused Vipin Kumar has already been enlarged on bail *vide* order dated 02.05.2024 passed by this Court. The role attributed to the present applicant is identical in nature, therefore, he deserves the same relief on the ground of parity.

4.1 Learned counsel would further submit that mandatory procedure as per section 50 and 52-A of NDPS, namely serving notice, preparing inventory of the contraband, certification from the petitioner, and production before the Magistrate, has not been complied with properly.

4.2 Counsel would also contend that though the alleged recovery took place at a crowded public place, no independent witness was joined. Moreover, the same was not video-graphed or photographed despite availability of such facilities. He would, therefore, contend that prosecution's case rests entirely upon police witnesses, thereby reducing its credibility.

4.3 Counsel for applicant would further submit that the applicant has no previous criminal involvement in any NDPS case or other offences, hence



no likelihood of reoffending. Moreover, all the witnesses cited by the prosecution are police officials; therefore, there is no apprehension of tampering with evidence.

4.4 He would further submit that continued incarceration serves no fruitful purpose, as investigation is already complete, and the charge sheet has been filed.

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. The rigors of Section 37 NDPS Act are thus fully attracted, and bail cannot be granted unless twin conditions are satisfied.

5.1 She also submits that applicant had previously moved application for grant of bail before the learned Special Judge (NDPS), Tis Hazari but the same was dismissed *vide* order dated 11.03.2025.

5.2 She further opposes the bail plea on the grounds of alleged offences being of grave and heinous nature, and have devastating effects on society and public health. Moreover, the applicant has no permanent address in Delhi. If released on bail, there exists a serious apprehension that he may jump bail, or indulge in similar offences again.

6. Having heard, the application deserves to be allowed for the reasons stated here in after.

7. Case set up by the applicant is that mandatory procedures under Sections 50 and 52-A NDPS Act, including serving notice, preparing inventory, obtaining certification, and producing the contraband before a Magistrate, were not properly followed. Despite the recovery occurring in a public place, no independent witnesses were joined, nor was the process



video-recorded, making the case reliant solely on police witnesses and reducing credibility. The applicant has no prior criminal record, poses no risk of reoffending, and cannot tamper with evidence as all witnesses are police officials. Continued detention is unnecessary since the investigation is complete and the charge sheet has been filed. Qua arguments on merits of non culpability of the applicant there is some substance in the arguments of the learned counsel for the applicant, however, the same are matter of trial and can be adjudicated only at the appropriate stage.

8. It transpires that the applicant has already undergone almost 2 years 3 months (date of arrest i.e. 29.05.2023) of incarceration during pendency of the trial, wherein chargesheet already stands filed and investigation is complete. As far as tampering of the evidence is concerned, the same seems to be an unfounded suspicion since most of the evidence is documentary in nature, which has already been seized by the prosecution and is beyond the reach of the applicant.

9. As regards to influencing the witnesses, they are all officials of the prosecution and thus, it is an unfounded suspicion that she may try to reach out.

10. Moreover, the applicant has no criminal antecedents of any kind suggesting attracting the ingredient of Section 37 of NDPS qua the repeat offence.

11. The applicant is a 32-year-old man who, at the crucial years of his career and continued preventive detention would jeopardize his career prospects for rest of the life. The suspicion that the applicant is likely to abscond, if granted bail, is unfounded.



12. The co-accused Vipin Kumar, who was implicated along with the applicant, has already been released during the pendency of the trial by this Court.

13. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail's pace.

14. Taking wholesome view of the matter, the application is allowed. The applicant is thereby 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.

15. 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.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 28, 2025/SV