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

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+ BAIL APPLN. 1479/2025
MANIRUL

.....Petitioner

Through: Mr. Arun Sharma and Mr.
Sandeep Tyagi,
Advocates.

versus

STATE OF NCT OF DEHI

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Puneet Bhart and SI
Manish PS Kalindi Kunj.

59

+ BAIL APPLN. 1535/2025
AJIT LASKAR

.....Petitioner

Through: Mr. Arun Sharma and Mr.
Sandeep Tyagi,
Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Puneet Bhart and SI
Manish PS Kalindi Kunj.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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22.04.2025

1. These bail applications are filed by the applicants seeking pre-arrest bail in FIR No. 247/2025 dated 26.03.2025, registered at police station Kalandi Kunj, for the offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. The brief facts of the case are that on 26.03.2025, a chance recovery of 3.2 Kg of Ganja was effected from co-accused Anwar. In his disclosure statement, co-accused Anwar allegedly admitted that he had bought Ganja from the applicants.



3. The applicant Ajit Lakkar is the father of the applicant Manirul. Both the applicants are present in the Court today.

4. The learned counsel for the applicants submits that the applicants are innocent and they have been falsely implicated in the present case.

5. He submits that the only material against the applicants, at this stage, is the disclosure statement given by the co-accused which is not admissible in the evidence without any corroboration. He submits that the applicants are neighbours of the main co-accused and no adverse inference ought to be drawn against them merely due to regular contact with the co-accused.

6. He submits that no recovery was effected from the applicants and nothing was found on search of their *jhuggi* either.

7. He further submits that the applicants are daily wage workers and they are willing to cooperate in the investigation.

8. *Per contra*, the learned Additional Public Prosecutor ('APP') for the State opposes the grant of any relief to the applicants and submits that there is enough material against the applicants in regard to the commission of offence.

9. He submits that the applicants were in regular touch with the co-accused and multiple calls were exchanged between the applicants and the co-accused during the relevant period.

10. He, however, fairly concedes that the *jhuggi* of the applicants was searched by the State and no incriminating material was found there.

11. I have heard the learned counsel and perused the record.

12. The law in regard to the grant of pre-arrest bail is well-settled. In the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694***, the Hon'ble Apex Court



expounded the factors and principles that are to be considered while dealing with an application seeking pre-arrest bail. The relevant portion is reproduced hereunder:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail...”*



13. The present case relates to offences under the NDPS Act. Undisputedly, pre-arrest bail ought not to be granted in a routine manner in serious offences of such nature so as to allow the accused to use the liberty as a shield, especially when the matter is at a nascent stage. The police ought to be given free hand in regard to the investigation. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest, and liberty ought not to be denied to an accused if the facts of the case merit grant of the same.

14. *Prima facie*, the applicants have been implicated in the present case primarily on the basis of the disclosure statement of the co-accused. It is relevant to note that while the veracity of the disclosure statement of the co-accused is to be tested at the time of the trial, this Court cannot lose sight of the decision of the Hon'ble Supreme Court in ***Tofan Singh v. State of Tamil Nadu: (2021) 4 SCC 1***, wherein it was held that a disclosure statement made under Section 67 of the NDPS Act is impermissible as evidence without corroboration. The relevant paragraphs of the said judgment is set out below:-

“158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are “police officers” within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

(emphasis supplied)

15. It is argued that initial investigation in most NDPS cases



starts at the disclosure of the person from whom the contraband has recovered. While the same is correct, however, it cannot be ignored that no recovery has been effected from the applicants in the present case. It is also not disputed that a raid has also been conducted at the *jhuggi* of the applicants and no incriminating evidence has been found against them as yet.

16. It is further argued by the learned APP that the applicants were in regular touch with the co-accused and multiple calls were exchanged between them and the co-accused. The learned counsel for the applicants has contested that the applicants and co-accused are neighbours and merely because they were in regular touch with the co-accused, the same cannot be made the sole basis for seeking custodial interrogation.

17. The mere existence of CDR connectivity does not *per se* indicate complicity in the crime and the same cannot be a ground to deny bail in the absence of any corroboration.

18. It is also relevant to note that intermediate quantity of the contraband was recovered from the co-accused, and therefore, the bar under Section 37 of the NDPS Act does not apply.

19. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the opinion of this Court, the custodial interrogation of the applicants is not required in the facts of the present case.

20. It is undisputed that the applicants have clean antecedents. It is also not disputed that the applicants belong to the poor strata of the society. It is pointed out that the applicants are the sole bread earners in their family, which includes the wife and minor children of the applicant Manirul. It is also pointed out that the applicant Ajit Laskar is a senior citizen.



21. No apprehension has been expressed that the applicants will evade the trial. Even otherwise, any apprehension regarding the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

22. In the opinion of this Court, the applicants have made out a *prima facie* case for grant of bail.

23. In view of the above, the present applications are allowed and the applicants, in the event of arrest, are directed to be admitted on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicants shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicants will not leave the boundaries of the country without the permission of the learned Trial Court;
- c. The applicants 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;
- d. The applicants shall appear before the learned Trial Court as and when directed;
- e. The applicants shall give their mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times;
- f. The applicants shall provide the address of their residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.



24. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

25. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

26. The bail applications are allowed in the aforesaid terms.

27. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 22, 2025/DU