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

+ **BAIL APPLN. 1750/2025**

RIZWAN ALI

.....Petitioner

Through: Mr. Sheikh Imran Alam and Mr. Rahul
Kumar Jain, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State
with SI Rahul

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 02.05.2024, for a period of 1 year 3 months and 27 days seeking indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No. 92/2024 dated 01.05.2024, for alleged offence under Section 21 of the NDPS Act registered at P.S. Crime Branch, Delhi.

2. Per FIR, On 01.05.2024, a Crime Branch team comprising SI Jagseer Singh and other staff received secret information from an informer that one Rizwan would come near the public toilet close to Gate No. 5, Kashmere Gate Metro Station between 03:00–03:30 PM to supply smack/heroin.

2.1 The informer was verified, and Inspector Umesh Sati and ACP were informed. A trap was laid with two private cars (DL 2CBE 2329 Brezza &



DL 2CBA 3032 Swift). Attempts to join public witnesses failed.

2.3 At about 03:20 PM, Rizwan was identified by the informer and apprehended. After informing him of his legal rights u/s 50 NDPS Act, Rizwan refused to be searched before a Magistrate/Gazetted Officer. On personal search, 280 grams of heroin was recovered from his pant pocket, packed in polythene, tested positive with the FSL kit, weighed, sealed, marked Parcel A, and seized.

2.4 Seizure memo was prepared; Rizwan's thumb impression and witnesses' signatures were obtained. The seal was handed over to HC Vikas. A rukka was prepared, and the case was registered under Section 21 NDPS Act. The seized parcel and FIR copy were handed to HC Vikas for compliance u/s 55 NDPS Act. Investigation was assigned to ASI Md. Rahishuddin.

2.5 During the course of interrogation, accused Rizwan Ali disclosed that he used to procure drugs from the Applicant Munish, for further sale in different parts of Delhi and NCR to various customers. He further stated that on a recent occasion, he had brought 300 grams of smack from Applicant Munish, out of which he had already supplied 20 grams to Salim, a resident of his native village *Unkalan, District Shahjahanpur, U.P.* The remaining 280 grams of heroin was in his possession at the time of his apprehension and was meant to be delivered to a customer in Delhi.

3. Learned counsel for the applicant would argue on the lines of grounds taken in the petition *inter alia* urging as below:-

3.1 That the Applicant has been falsely implicated. The case property was allegedly planted, and the Applicant is being used as a scapegoat to protect



the real offenders. The registration of this FIR is a classic example of abuse of process of law and collusion between the complainant and the State machinery.

3.2 That the Applicant is a law-abiding citizen with no prior criminal antecedents. There is no risk of absconding, fleeing justice, or tampering with evidence. Judicial custody during the trial is not necessary.

3.3 That the Applicant is the sole breadwinner for his aged parents, sister, and younger brother. He works as a tailor to earn a livelihood, and prolonged incarceration is causing undue hardship to him and his family.

3.4 That co-accused persons in this matter, namely Salim and Md. Shakir Khan, have already been granted bail by the this Court Salim – 19.11.2024(Annexure P-5) , Shakir Khan – 24.01.2025 (AnnexureP-6), showing that there is precedent for granting bail in this matter.

3.5 That the trial in this case is likely to be prolonged, as charges have not yet been framed. Continued detention during the pendency of trial would amount to violation of the Applicant's fundamental rights under the Constitution of India.

3.6 That the Applicant undertakes to abide by all terms and conditions that this Court may impose, including furnishing sound surety, in the event of being granted bail.

4. Opposing the above submissions, the Learned APP for the State submits that the applicant is not entitled to bail at this stage, as there is a genuine risk of absconding or tampering with evidence, and he is likely to commit similar offences. The recovery in the present case is of commercial quantity, attracting the rigours of Section 37 of the NDPS Act, 1985. Drug trafficking poses a grave threat to society, particularly affecting the younger



generation and the economy. In view of the commercial quantity involved, the petitioner's antecedents, the statutory bar under Section 37, and settled Supreme Court law, he does not deserve the concession of bail.

5. Having heard, I am of the view that the arguments of the learned counsel for the applicant seem to have merit but all that is matter of trial, to be adjudicated at the appropriate stage, but otherwise it appears to be a case for bail. Let us see how.

6. Pertinent it is to note that the investigation in the matter has been completed and the charge-sheet has already been filed. Given that the applicant has remained in custody for approximately seven months while the trial is progressing at a snail's pace, further incarceration would serve no useful purpose. Particularly, when the trial is unlikely to conclude in the near future, thereby violating the fundamental principle that bail is the rule and jail the exception.

7. As regards the apprehension of tampering with evidence is concerned or influencing or intimidating the witnesses, the applicant has been in custody since 02.05.2024, has cooperated throughout the investigation, and there is nothing to suggest that he would abscond, interfere with evidence, or influence witnesses. One of the primary objects of bail is to secure the presence of the accused during trial. The applicant has no criminal antecedents, poses no flight risk, and continued detention may amount to punishment before conviction, at this stage.

8. The applicant is also the sole breadwinner and caretaker of his family, and his prolonged detention is causing severe hardship to his dependents who are living under penury.

9. Given that the petitioner is already incarcerated since 02.05.2024 the



nature of the contraband and the quantity thereof and also the allegation that there has been non compliance of Section 42 though the same is matter of trial, I am of the view that at this stage he is entitled to bail.

10. 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.

11. 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.

12. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 28, 2025/SV