



\$~4

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

+ **BAIL APPLN. 1751/2025**

SALEEM KHAN @ BHURA

.....Petitioner

Through: Mr. Jitendra Sethi, Senior Advocate
with Mr. Rajesh Kaushik, Mr.
Hemant Gulati, Mr. Shobit Dimri &
Mr. Keshav Sethi, Mr. Anchal & Mr.
Divyam Gaur, Advocates

versus

STATE, NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP with SI
Rajendra Dhaka, ISC, Crime Branch,
Chanakya Puri, New Delhi

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **10.12.2025**

1. The present petition has been filed on behalf of the petitioner under Section 482 BNSS [Section 438 Cr.P.C.] seeking grant of anticipatory bail in FIR No. 0233/2024, registered at PS New Crime Branch for offences under Sections 21/61/85 of NDPS Act.

Factual Background

2. As per the prosecution case, on 20.11.2024, a secret information was received by SI Naresh Kumar of PS Crime Branch stating that one Zeeshan Hussain who is involved in smuggling of smack (heroin), would come near Kalindi Kunj–Jaitpur area around 2:00 PM to deliver a huge consignment of heroin to his associates. The information was reduced into writing vide GD



entry no. 113A.

3. Acting on the said secret information, a raiding party was constituted and the team along with the secret informer reached Khadda Colony, Jaitpur, Kalindi Kunj Road, near Diamond Farm. At around 9:10 PM, a person approached on foot from Khadda Colony and stood near Diamond farm-whom the secret informer identified as Zeeshan. After waiting for 8-10 minutes and observing that no one joined him, Zeeshan was subsequently apprehended by the raiding team at around 9:20 PM.

4. A recovery of 404 grams heroin was allegedly effected from his personal search. Consequently, FIR No. 0233/2024 was registered under Sections 21/61/85 of NDPS Act at PS New Crime Branch and Zeeshan was arrested on 21.11.2024.

5. During interrogation, Zeeshan allegedly disclosed that he had been introduced to the petitioner by one Saleem Khan of Visaratganj and that he procured the said contraband from the petitioner on 28.10.2024 when he went to meet the petitioner in his village- Rampura Mafi. Based on the said disclosure of co-accused Zeeshan, the petitioner was implicated for alleged involvement in the supply chain of smack (heroin).

Submissions on behalf of the petitioner

6. Learned counsel for the petitioner submits that the entire case of the prosecution rests solely on the disclosure statement of co-accused Zeeshan. Such disclosure made to police is hit by Section 25 of the Evidence Act and is entirely inadmissible, as held by Hon'ble Supreme Court in ***Aghnoo Nagesia v. State of Bihar, AIR 1966 SC 119***, and reaffirmed by the Constitution Bench in ***Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1***, holding that confessional statements to police officers under Section 67



NDPS Act have no evidentiary value.

7. It is contended that there is no CDR and no direct communication between the petitioner and co-accused Zeeshan and that Zeeshan was in touch only with Salim Khan, and not with the petitioner Saleem Khan @ Bhura.

8. It is argued that under Section 29 NDPS Act (criminal conspiracy), the prosecution must first establish that Salim Khan, the alleged central link, is himself part of the conspiracy. However, he has not been arrested, interrogated, or even made an accused, which defeats the very foundation of the alleged conspiracy and weakens the prosecution case as to establish the role of the petitioner.

9. Ld. Counsel relies upon judgments passed by Coordinate benches of this Court in *Mohd. Wasim Khan Vs. State, NCT of Delhi, [Bail Appln. 3601/2025]*; *Irfan Khan Vs. State Govt. of NCT of Delhi, [Bail Appln. 576/2025]* and *Joy Mitra Vs. NCB [Bail Appln. No. 372/2024]*, *Jyotika Singh Vs. NCB [Bail Appln. No. 375/2024]* & *P. Vijai Pranav Vs. NCB [Bail Appln. No. 386/2024]* to argue that anticipatory bail was granted in similar cases where implication was solely based on disclosure statement of co-accused, without presence of corroborative material or CDR links. It is prayed that the bail application of the petitioner be allowed.

Submissions on behalf of the State

10. *Per contra*, Ld. APP for the State has opposed the bail application arguing on lines of Status Report, Ld. APP submits that during investigation, Salim Khan was interrogated wherein he stated that he knew the petitioner Saleem @ Bhura since long and was aware that the petitioner indulged in the business of heroin supply. He further stated that he introduced co-



accused Zeeshan to the petitioner, but was not part of their smack business. Ld. APP further argues that as per the Tower locations, Co-accused Zeeshan was present at the village of the petitioner on 28.10.2025 and the same is corroborated by the disclosure statement of co-accused Zeeshan that he had gone to the said village [Rampura Mafi] to collect the contraband from the petitioner.

11. It is submitted that the recovered quantity of the contraband is commercial quantity and therefore the rigors of Section 37 NDPS Act shall apply. Co-accused Zeeshan is in judicial custody. Custodial interrogation of the petitioner is essential and releasing him may hamper investigation. Hence, it is prayed that the bail application be dismissed.

Analysis and Reasoning

12. I have considered the rival submissions and the material placed on record. The prosecution case against the petitioner is founded entirely upon the disclosure statement of co-accused Zeeshan Hussain, who was apprehended with 404 grams of heroin. No recovery has been effected from the petitioner, nor has any independent material been produced to demonstrate his involvement in the alleged transaction.

13. Prosecution has not pointed to any recovery, incriminating article or financial transaction traceable to the petitioner. The State also concedes that no telephonic conversation has been detected between the petitioner and co-accused Zeeshan. The record instead indicates communication only between Zeeshan and one Saleem Khan, who is alleged to have introduced the petitioner to the co-accused.

14. Strikingly, Saleem Khan has neither been arrested nor examined meaningfully during investigation. The absence of any steps taken against



the very person said to be the bridge between the petitioner and the co-accused substantially weakens the prosecution's theory of conspiracy. Without examining or securing the presence of the individual said to connect the petitioner to the supply chain, the prosecution cannot insist that custodial interrogation of the petitioner is indispensable.

15. On an overall conspectus of the material, the prosecution has failed to present any substantive evidence connecting the petitioner to the recovered narcotics. The case against him rests solely on an inadmissible disclosure statement, unsupported by CDRs, financial trail or recovery. Admittedly, he has already joined the investigation during the pendency of the present bail application.

16. Considering the totality of circumstances, this Court is of the opinion that the petitioner has made out a *prima facie* case for grant of pre-arrest bail and that no custodial interrogation of the petitioner is necessary.

17. Accordingly, the present application is allowed subject to the following conditions:

- i. In the event of arrest of the petitioner, he shall be released on bail on furnishing a personal bond in the sum of Rs.20,000/- with one surety of like amount to the satisfaction of the SHO/IO concerned;
- ii. The petitioner shall join investigation as and when directed by the IO and shall cooperate fully;
- iii. He shall not contact, approach, or attempt to influence the witnesses in any manner and shall not tamper with evidence;
- iv. He shall provide his mobile number to the IO, keep it operational at all times, and intimate any change of address;
- v. He shall not leave India without prior permission of the Court.



18. It is clarified that nothing stated herein shall tantamount to an expression on the merits of the case.

19. The present application accordingly is allowed and disposed of alongwith pending application(s), if any.

RAVINDER DUDEJA, J.

DECEMBER 10, 2025/AK