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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1850/2025 & CRL.M.A. 14960/2025 EXEMPTION
FROM FILING REPLY FILED BY THE INVESTIGATION
OFFICER**

TASLIM

.....Petitioner

Through: Mr. Vikram Hegde, Mr. Chitwan
Sharma, Advs.

versus

STATE THROUGH PS BHALSWA DAIRYRespondent

Through: Mr. Aashneet Singh, APP.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
14.11.2025

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1. This is the second regular bail application filed on behalf of the applicant for the grant of bail in case FIR No. 781/2021, under Sections 21/25/29 of the NDPS Act registered at P.S. Bhalswa Dairy.
2. Briefly stated the facts of the case as per the charge sheet are that, on 08.11.2021, the Narcotics Cell received secret information that Arshad Ali, along with associates, would arrive near Bhalswa Lake between 9-11 PM to deliver a large heroin consignment. A raiding team was formed, and after attempts to join public witnesses failed, surveillance was laid at the spot where the accused arrived in taxi No. UP-25-DT-5525. Around 10:14 PM, Arshad Ali, Applicant and Arshad Khan were apprehended and 01 kg of heroin was recovered from a black rexine bag carried by co-accused Arshad



Ali. All three were served notices under Section 50 NDPS Act, and after ACP reached the spot, the heroin was seized, sealed, and the accused were taken to the Narcotics Cell office, where further formalities were conducted.

3. Learned counsel for the applicant submits that the applicant has been in custody since 09.11.2021 and that he was merely a passenger in the car with no knowledge of the contraband being transported, which, in any event, was recovered from a bag admittedly carried and possessed by the co-accused Arshad Ali. It is submitted that there is no material to show the applicant's conscious possession or participation in the alleged offence, and his implication is solely on account of his presence in the vehicle. Learned Counsel further submits that the trial is likely to take considerable time to conclude, and the applicant has already undergone more than four years of incarceration without the trial making meaningful progress.

4. Learned APP for the State opposes the application, submitting that the applicant was accompanying the co-accused in a private vehicle in which the contraband was being transported, thereby placing him in conscious possession of the recovered substance. The contraband that was being seized by the investigating agency was of 1 kg heroin which is very much above the threshold of the commercial quantity. Furthermore, since the contraband was recovered from the very car in which the applicant was a co-passenger, his involvement cannot be ruled out, and hence he is not entitled to bail.

5. Having considered the submissions made on behalf of the applicant as well as the State, and upon perusal of the material placed on record, this Court takes note that the applicant has been in custody since 09.11.2021, amounting to more than four years of incarceration.

6. It is further pertinent to note that the trial has been progressing at a



slow pace. Out of 25 prosecution witnesses, only 9 witnesses have been examined so far. The trial is, therefore, likely to take substantial time before it reaches conclusion. Continued detention of the applicant, in these circumstances, would result in undue hardship and infringe the rights under Article 21 of the Constitution.

7. In ***Sanjay Chandra v. CBI*** (2012) 1 SCC 40, the Hon'ble Supreme Court emphasized that the object of bail is neither punitive nor preventive but only to secure the presence of the accused at trial by a reasonable amount of bail. The Court observed that deprivation of liberty must be treated as punishment unless it is necessary to ensure that the accused stands trial when required. It was further held that courts must give real effect, and not mere verbal respect, to the principle that punishment begins only after conviction, and every person is presumed innocent until duly tried and found guilty.

8. The Supreme Court and this Court have repeatedly held that where the accused have already undergone a substantial period of custody and the trial shows no likelihood of early completion, bail can be granted even in NDPS cases involving commercial quantity. Recently in ***Man Mandal & Anr. v. The State of West Bengal*** 2023 SCC Online SC 1868, the Apex Court admitted the accused on bail on the ground that the petitioner was in custody for almost two years and the trial was not likely to be taken up for hearing in the immediate near future. Similarly, in ***Jitendra Jain v. NCB & Anr.*** 2022 SCC OnLine SC 2021 the Apex Court noted that though it was a case of commercial quantity and allegations leveled against the petitioner were serious in nature, but having regard to the fact that the petitioner was in custody for 02 years and the conclusion of trial will take time, the petitioner



was admitted to bail. The Apex Court as well in ***Javed Gulam Nabi Shiakh v. State of Maharashtra and Another*** (2024) 9 SCC 813, upon relying on ***Gudikanti Narasimhulu & Ors v. Public Prosecutor*** (1978) 1 SCC 240 *inter alia* observed that bail is not to be denied as a punishment as the requirement of bail is merely to secure the attendance of the prisoner at trial. Reliance was also placed upon ***Hussainara Khatoon v. Home Secy. State of Bihar*** (1980) 1 SCC 81, ***UOI v. KA Najeeb*** SLP (Crl.) No. 11616 of 2019.

9. In ***Rabi Prakash v. State of Odisha*** 2023 SCC OnLine SC 1109 where the accused had remained incarcerated for more than three and a half years, the Apex Court while releasing the petitioner on bail *inter alia* observed that 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 of the NDPS Act.

10. Taking into consideration that the applicant has been in custody since 09.11.2021 and admittedly the trial is likely to take considerable time to conclude with only 9 out of 25 witnesses examined thus far, this Court is of the opinion that further detention of the applicant is unwarranted. Accordingly, the applicant is admitted to bail upon furnishing a personal bond in the sum of Rs. 50,000/- with a surety of the like amount to the satisfaction of the Trial Court/Duty MM, subject to the following conditions:

- a) The applicant shall regularly appear before the trial court as and when directed;
- b) that applicant shall not try to contact any of the prosecution witnesses and shall not directly or indirectly threaten or intimidate the witnesses;



- c) the applicant shall remain available on the address, to be given to the IO and shall not leave the State of Delhi/NCT without the permission of the learned Trial Court;
 - d) In case of change of residential addresses and/or mobile number, the applicant shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit; and
 - e) Upon being released, applicant shall share his mobile number to the IO and shall keep the same operational all the times.
11. The bail application accordingly stands disposed off.
12. It is clarified that nothing stated herein shall tantamount to be an expression on the merits of the case.
13. A copy of this order be sent to Jail Superintendent for necessary compliance.

RAVINDER DUDEJA, J

NOVEMBER 14, 2025