



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 06th November, 2025

Pronounced on: 12th November, 2025

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BAIL APPLN. 1920/2025

KULDEEP KUMAR

S/o Sh. Lala Ram

R/o Prakash Vihar, Loni Ghaziabad, U.P.

.....Petitioner

Through: Mr. Akshay Bhandari and Mr. Anmol Sachdeva, Advocates.

versus

NARCOTIC CONTROL BUREAU

Through SHO/IO,

PS -Special Cell, New Delhi

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State with SI Prahlad, PS Special Cell.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Second Bail Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 [*corresponding to Section 439 of the Code of Criminal Procedure (CrPC), 1973*] has been filed by the **Applicant/KuldeepKumar** for seeking **Regular Bail** in FIR 374/2022 under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter referred to as "NDPS Act"*) registered at P.S. Special Cell.

2. It is the **case of the Prosecution** that a team led by Inspector Manender



Singh of the Special Cell (SWR) was working on syndicates involved in illegal drug trafficking. As per the *Prosecution*, Special Cell (SWR) received a Secret Information in September 2022 about a drug syndicate allegedly run by **Kuldeep (the Applicant)** along with his associate **Rishi Kumar Singh**. The two were reportedly involved in the procurement and large-scale supply of contraband substances in Delhi-NCR and other parts of the country. Further investigation revealed that a drug deal was to take place between Kuldeep, Rishi, and their associates.

3. On **13.12.2022 at about 4:40 PM**, secret informer reported that Rishi would be delivering a large consignment of drugs to Kuldeep near **T-Point, Shani Mandir, and Govt. Lady Noise Dumb School, Nehru Vihar, Delhi**.

4. Around **6:45 PM**, Rishi arrived on an off-white Scooty without a number plate, carrying two cardboard cartons, and was accompanied by an E-rickshaw loaded with similar cartons. Shortly after, **Kuldeep arrived on a Passion motorcycle (DL5SBL2907) along with an Eco Van (DL1LS3970)**. The informer identified them and left.

5. **Both Rishi and Kuldeep were seen transferring the cartons from the Scooty and E-rickshaw into the Eco Van**. They were immediately surrounded and apprehended. The drivers of the Eco Van and E-rickshaw, identified as **Brijmohan** and **Raju**, were also detained. Preliminary inquiry revealed that they had been hired by Kuldeep and Rishi for transporting the boxes.

6. Around **8:15 PM**, ACP Sanjay Dutt arrived at the spot. **The search of the vehicles revealed multiple cartons containing the following substances:**



- **Two cardboard boxes** of Alprazolam Tablets IP 0.5 mg (make Alprasafe-0. Make Plenteous5), each box containing 100 small boxes, each small box with 10 large strips of 60 tablets bearing Batch No. PCCAAIQ20
 - **Three cardboard boxes** of containing A Kumentis tablets of Paracetamol, Diclomine Hydroclides & Tramadol Hydrochloride Capsule (325 mg+ 10 mg+ 50 mg), Mark Proxyband Spas. Each card box was found containing 60 small boxes and each small box was found containing 10 large strips each of 24(8*3) tablets bearing Batch No. P07FA21.
 - **Three cardboard boxes** were found containing PROXYWEL SPAS tablets of Paracetamol, Dicyclamine Hydrochlorine & Tramadol Hydrochlorise Capsule, Mark Plenteous, marketed by Plenteous Pharmaceuticals Limited. Each card box was found containing 60 small boxes and each small box was found containing 10 large strips each of 24(8*3) tablets, bearing batch no. PCCIH292.
 - **One cardboard box** recovered from possession of Kuldeep and two cardboard boxes recovered from the E-rikshaw were found containing Proxywel Spastablets of Paracetamol, Dicyclamine Hydrochlorine & Tramadol Hydrochlorise Capsule. Each card box was found containing 60 small boxes and each small box was found containing 10 large strips each of 24(8*3) tablets; bearing batch no. PCCIH292.
7. Both Kuldeep and Rishi admitted that the seized substances were *Tramadol* and *Alprazolam* tablets. They were thus found to be in illegal possession of psychotropic substances for commercial trade, and Inspector Manender Singh got the Fir under Sections 22, 29 NDPS Act, registered. He briefed the IO about the case details and handed over all relevant documents, including the permission under Section 42 NDPS Act, secret information, Notices under Section 50 with acknowledgments, seizure memo, seal handover memo, and the original search warrant.
8. During the investigation, both accused disclosed their involvement in the trade of psychotropic substances. Kuldeep admitted that he had asked



Rishi to procure **nine cartons of Tramadol** and **two cartons of Alprazolam** to meet the market demand.

9. Subsequently, co-accused **Anurag Kumar Sinha**, proprietor of *Chitra Surgi Pharma*, was arrested for illegally diverting psychotropic substances to Rishi. A search of his premises led to the recovery of 13 cartons containing 2,10,280 Tramadol and Alprazolam tablets/capsules and 146 bottles of Codeine-based syrups.

10. On Anurag's further disclosure, a raid was conducted at *Life Line India Company, B-28, Patparganj Industrial Area, Delhi*, where the team, along with Drug Inspectors, seized samples of three medicines/drugs.

11. All accused were produced before court for sampling proceedings under **Section 52A NDPS Act**, and the contraband weight was taken as per law.

12. It is submitted that the Applicant was arrested on 14.12.2022 and has been in Judicial Custody ever since i.e. for about 2 years and 6 months. The Applicant had filed the Bail Application 2353/2024 before this Court, however the same has been withdrawn with liberty to file the fresh Bail.

13. The **grounds taken by the Appellant seeking Regular Bail** are that the Applicant has been falsely implicated in the present case. He was working for the co-accused Anurag Sinha, who was running a business of pharmaceutical drugs, who has already been granted Bail. Furthermore, he was merely working under the instructions of Anurag Sinha, collecting and delivering cartons for cash payment. It is not the Prosecution's case that any person was ever found purchasing illegal substances from the applicant.

14. Reliance is also placed on *Shankar Kumar Sinha vs. NCB*, Bail Application No. 1120/2023 wherein it was held that in the absence of



evidence showing conscious possession or ownership of the contraband, and where the accused merely acted on another's directions, the benefit of doubt should go to the accused.

15. Reliance is placed on the case of Gangadhar @ Gangaram vs. State of Madhya Pradesh, SLP (Crl.) No. 7415/2019, the Apex Court held that the stringent provisions of the NDPS Act, including Section 37, do not dispense with the Prosecution's obligation to establish a *prima facie* case beyond reasonable doubt before the burden shifts to the accused. The gravity of sentence necessitates heightened scrutiny of evidence.

16. It is submitted that the seizure memo reflects that exhibits B-3 to B-11 contained 60 boxes with 10 strips each, whereas during production before the Ld. MM under Section 52A NDPS Act, the same boxes were found to contain 30 strips each. This serious discrepancy undermines the credibility of the Prosecution's case.

17. It is further submitted that the Applicant has already undergone over 2.5 years of incarceration, while only one out of 32 witnesses has been examined till date. Reliance is placed on Javed Gulam Nabi Shaikh vs. State of Maharashtra, Criminal Appeal No. 2787/2024 to seek Bail on the ground of delay.

18. Reliance is also placed on Zahrur Haider Zaidi vs. CBI, SLP (Crl.) No. 2123/2018 wherein the Apex Court held that Bail should not be denied merely on the ground of possible witness intimidation; in which situation, the Prosecution can always seek cancellation of Bail.

19. Hence, a prayer is made for grant of Bail.

20. *Status Report has been filed on behalf of the Respondent State.* The facts of the case have been detailed and it is stated that during the



investigation, sampling under Section 52A NDPS Act was done. It is stated that a total of **11 cardboard boxes containing 1,29,600 Tramadol capsules and 1,20,000 Alprazolam tablets** were recovered from the Eco-van and E-Rikshaw, including one cardboard box which was in the Applicant's hand.

21. The weight of the contraband recovered from the joint possession of co-accused, Rishi Kumar Singh and the Applicant was **80.8 kgs** (16 kgs Alprazolam + 64.8 kgs Tramadol).

22. The mobile phones of all the accused persons were seized. During the CDR analysis, it was found that there were 864 calls between Anurag Kumar Sinha and Rishi Kumar Singh and the Applicant from 04.09.2022 to 13.02.2022, reflecting the Applicant was in frequent contact with other accused.

23. Furthermore, the data retrieved from the seized mobile phones of all the accused persons, was received from FSL Rohini. The data revealed that there were 629 audio files and 9045 audio files found recorded in the mobile phone of accused Rishi Kumar Singh and Anurag Kumar Sinha. There are some recorded calls of all accused persons on the date of recovery i.e. 13.12.2022, talking about the consignment of psychotropic substances.

24. Furthermore, the transcription of the relevant recorded calls regarding the psychotropic substances of all accused persons, were prepared and taken on record. The voice sampling results are awaited.

25. It is stated that *the Charges have been framed*. The recovery affected is of commercial quantity and *hence, the Bail Application is strongly opposed*.

Submissions heard and record perused.

26. The brief facts of the case are that on 13.12.2022, Inspector Manender Singh, acting on secret information regarding syndicates involved in illegal



drug trafficking, conducted a raid and apprehended four persons including the Applicant and co-accused Rishi Kumar Singh. The case of the Prosecution is that Rishi Kumar Singh and Kuldeep Kumar had hired an Eco Van and E-rickshaw specifically for transporting contraband substances. Psychotropic substances were recovered from their possession, leading to proceedings under the NDPS Act. As per the Prosecution, total of **11 cardboard boxes containing 1,29,600 Tramadol capsules and 1,20,000 Alprazolam tablets** were recovered including one cardboard box which was in the Applicant's hand.

27. At the outset, it may be noted that **Section 37 NDPS Act, 1985**, which provides for Bail, lays down twin conditions to be satisfied for getting Bail under NDPS Act. It reads as under:

“37. Offences to be cognizable and non-bailable -(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) - (b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless –
(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and
(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

28. The “twin tests,” that must be satisfied before bail can be granted, are that the court must have “*reasonable grounds for believing*” that the accused is “not guilty” and is “*not likely to commit any offence*” if released. This



standard is significantly higher than the one for granting Bail in other criminal cases.

29. In the case of Lt. Col. Prasad Shrikant Purohit vs. State of Maharashtra, (2018) 11 SCC 458, Apex Court observed that at the stage of Bail, the court cannot conduct a mini-trial to determine the validity of the procedures and laid down the relevant factors to be considered for grant of Bail, as under:

“29. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider, among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.”

30. *Firstly, the role of the Applicant and the nature of the offence must be considered.*

31. The Prosecution’s case reveals that the Applicant, along with co-accused Rishi Kumar Singh, was directly involved in hiring an Eco Van and E-rickshaw specifically for the purpose of transporting contraband



substances. A joint recovery of **80.8 kgs** (16 kgs Alprazolam + 64.8 kgs Tramadol)(1,29,600 capsules of Tramadol and 1,20,000 tablets of Alprazolam) has been made from the Applicant and the co-accused person i.e. commercial quantities.

32. *The Applicant has contended for Bail on the grounds of parity with Anurag Kumar Singh.* However, the Bail granted to the co-accused, Anurag Kumar Sinha was premised on findings regarding discrepancies in batch numbers, the absence of a direct link between the recovered medicines recovered and tracing it to Anurag. In contrast, the *prima facie* case against the Applicant is clear and establishes his role as a transporter for moving illegal drugs. He was arrested while transporting the contraband and the subsequent recovery of psychotropic substances (including the box in his hand). *The Applicant cannot seek parity with Anurag when their roles and evidentiary circumstances are materially and fundamentally different.*

33. The Applicant has also contended that he was merely working for co-accused Anurag Kumar Sinha and was engaged only to collect and drop cartons on Anurag's instructions, for which he received cash payments. However, it cannot be overlooked that the Prosecution has also produced the data retrieved from the Applicant's mobile phone and some recorded calls, all of which point towards his active participation with Rishi Kumar Singh and Anurag Kumar Sinha in the illegal trafficking of psychotropic substances on 13.12.2022. As per the Prosecution, the timing, frequency, and pattern of these communications were particularly in relation to the consignment of psychotropic substances on 13.12.2022. ***This demonstrates that the role of the Applicant, cannot be regarded as minor.***



34. **Secondly**, the Applicant has emphasized that there is delay and asserted that the trial may take long, which entitles him to Bail. Applicant's direct involvement in transportation for contraband substances establishes a *prima facie* case that cannot be overlooked merely on the **ground of duration of custody**. There may be Prosecution Witnesses who are yet to be examined, but the time being taken in conclusion of trial may be one of the relevant factors, but the same has to be *weighed in the context of gravity of offence*.

35. While it is established from various judgments that delay in conclusion of trial is one of the grounds for Bail, here is a case where a huge recovery of about 80.8 kgs of *Aplrazolam and Tramadol* was made.

36. In Criminal Appeal No.(s) 154-157 of 2020, *State of Kerala vs. Rajesh and others*, the Apex Court has held liberal approach in the matter of Bail under the NDPS Act, is uncalled for. The Apex Court in *Anil Kumar Yadav vs. State (N.C.T.) of Delhi and another*, 2018(1) SCC 117 observed that in serious crimes, the mere fact that the accused is in custody for more than one year, may not be a relevant consideration to release the accused on Bail.

37. Considering that that Applicant was arrested on 14.12.2022, the Chargesheet has already been filed, Charges have been framed and that the matter is ongoing for Prosecution Witnesses, it cannot be said that there is inordinate delay in the trial; rather it is proceeding at its pace.

38. **Lastly**, the Applicant has also contended the discrepancy in the quantity of contraband mentioned in the seizure memo and the case property produced before the Ld. MM.

39. However, it cannot be overlooked that whether the procedural compliances were strictly adhered to is a matter of trial, which at this stage does not falsify the case of the Prosecution or entitle the Applicant to Bail.



40. The Apex Court in Narcotics Control Bureau vs. Kashif, (2024) 11 SCC 372, has observed as under:

“50.5. Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.”

41. Similarly, the Apex Court in State of Karnataka vs. Sri Darshan, 2025 SCC OnLine SC 1923, has held that a procedural lapse, by itself, does not justify the grant of Bail in cases involving serious offences.

42. In view of the above analysis, considering the recovery of a **commercial quantity of contraband**, the strong *prima facie* case against the Applicant, the failure to meet the mandatory twin conditions laid down in **Section 37 of the NDPS Act**, no case is made out for grant of Bail.

43. It is clarified that the observations made herein are confined to the present Bail Application and shall have no bearing on the merits of the case. Also, before concluding it may be observed that an endeavour be made by the Ld. Trial Court for expeditious disposal of the matter.

44. The present Bail Application is devoid of merit and is accordingly **dismissed**.

45. Pending Application(s), if any, are accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 12, 2025/R