



\$~3 & 4

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

+ **BAIL APPLN. 2050/2025**

VINOD KUMAR JAISWAL @ VINOD GUPTAPetitioner

Through: Mr. Sandesh Kamlesh Jha, Mr. Rahul Verma, Mr. Shashank Shekhar Singh, Mr. Shashank Rai, Ms. Keerti Saini, Mr. Amit Jaiswal, Mr. Ravi Mishra, Mr. Jayesh Mishra, Mr. Gaurav Gupta, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION, ECONOMIC OFFENCE-II,Respondent

Through: Mr. Ripudaman Bhardwaj, SPP for CBI with Mr. Kushagra Kumar, Mr. Amit Kumar Rana, Advocates with SI Shobit Kanojia.

+ **BAIL APPLN. 2085/2025**

VINOD KUMAR JAISWAL @ VINOD GUPTAPetitioner

Through: Mr. Sandesh Kamlesh Jha, Mr. Rahul Verma, Mr. Shashank Shekhar Singh, Mr. Shashank Rai, Ms. Keerti Saini, Mr. Amit Jaiswal, Mr. Ravi Mishra, Mr. Jayesh Mishra, Mr. Gaurav Gupta, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION, ECONOMIC OFFENCE-II,Respondent

Through: Mr. Ripudaman Bhardwaj, SPP for CBI with Mr. Kushagra Kumar, Mr. Amit Kumar Rana, Advocates with SI Shobit Kanojia.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA



ORDER

08.10.2025

%

1. The present applications under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seek regular bail in FIRs no. RC2202023E0016 and RC2202023E0017 registered under Sections 8 read with Sections 22, 23 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985³, at P.S. CBI EO-II, New Delhi. The FIR bearing no. RC 2202023E0016, pertains to a parcel containing 1880 grams of MDMA; while FIR bearing No. RC 2202023E0017, relates to a parcel containing 1852 grams of MDMA.

2. The case of the prosecution in brief is as follows:

2.1 An Interpol reference dated 04th July, 2023, was received by the National Crime Bureau, New Delhi from the Interpol Drug Unit regarding three parcels suspected to contain prohibited narcotic substances that had arrived in India from Belgium. The parcels were addressed to (i) Arjun Gupta at Mumbai, (ii) Anil Kumar at Baraut, Prayagraj, and (iii) Rohit Yadav at Prayagraj. Pursuant to the said information, two of the parcels detained by Customs were seized by CBI at the Foreign Post Office, Kotla Road, New Delhi.

2.2 Upon opening, the parcels were found to contain tablets which tested positive for MDMA. The total weight of the recovered substance was approximately 3.7 kilograms, exceeding the commercial quantity threshold of 10 grams prescribed under the NDPS Act. Consequently, on 06th July, 2023, two cases bearing RC Nos. 2202023E0016 and 2202023E0017 were

¹ “BNSS”

² “CrPC”

³ “NDPS”



registered.

2.3 A controlled delivery operation was thereafter planned using dummy parcels. During the controlled delivery operation conducted on 11th July, 2023, calls were made from the mobile number of Anil Kumar to the concerned postman, enquiring about the parcels. Subsequently, Mohit Jaiswal arrived at the Baraut Post Office to collect the parcels addressed to “Rohit Yadav” and “Anil Kumar”, but fled from the spot upon sensing the presence of the CBI team. Thereafter, Mohit Jaiswal was arrested on 13th July, 2023.

2.4. During interrogation, Mohit Jaiswal disclosed that he had attempted to collect the parcels on the instructions of his brother-in-law, Vinod Kumar Jaiswal, the present Applicant. It was also found that calls were exchanged between the Applicant and co-accused Anil Kumar and Mohit Jaiswal on the date of the controlled delivery.

2.5. Investigation further revealed that the mobile number mentioned on the intercepted parcel was registered in the name of an untraceable individual. That number was linked, through a chain of alternate contact details, to a connection obtained in the name of the Applicant, Vinod Kumar Jaiswal. The address furnished in connection with the said number corresponded to Flat No. 504, Neelgagan CHS, Navi Mumbai, a premises previously occupied by the Applicant.

2.6 The Applicant surrendered before the Court on 22nd November, 2024, and was arrested. Supplementary chargesheets were thereafter filed against the Applicant under Sections 8, 22, 23 and 29 of the NDPS Act, alleging his involvement in the trafficking of MDMA in conspiracy with the co-accused.

3. Counsel for the Applicant urges the following grounds for seeking



bail:

3.1 The Applicant had no knowledge of or connection with the contents of the parcels and has been falsely implicated in the present case. No parcel was ever booked in his name, nor did he at any stage make any inquiry or visit the Post Office for the purpose of taking delivery of any parcel. He has not been shown to have played any role in the booking, dispatch, or receipt of the intercepted consignments.

3.2 The prosecution has failed to establish the essential ingredient of 'conscious possession' under the NDPS Act as no recovery has been made from him. The only material relied upon by the prosecution is the alleged exchange of phone calls between the Applicant and the co-accused. The Applicant is related to the main accused, Mohit Jaiswal. These calls were made from a mobile number registered in the name of the Applicant's wife. Considering the family relationship between the parties, such communication was of a routine nature.

3.3 Apart from the said phone records, the prosecution has relied solely on the disclosure statements of co-accused Mohit Jaiswal and Anil Kumar. However, as settled by the Supreme Court in *Toofan Singh v. State of Tamil Nadu*,⁴ such disclosure statements cannot, by themselves, constitute admissible evidence to implicate an accused.

3.4 The Applicant has been in custody since 22nd November, 2024. The investigation having been completed and the chargesheet filed, further incarceration would serve no purpose. It is thus prayed that the Applicant be released on bail, as continued detention would cause undue hardship to him and his dependents



4. Mr. Ripudaman Bhardwaj, SPP for CBI, strongly opposes the present bail application on the following grounds:

4.1. Co-accused Mohit Jaiswal, in his statement recorded in the presence of independent witnesses, disclosed that he attempted to collect the parcel under instructions from his brother-in-law, accused Vinod Kumar Jaiswal. Co-accused Anil Kumar also disclosed that the parcel was booked in his name by Vinod Kumar Jaiswal and Mohit Kumar Jaiswal.

4.2. During investigation, it was found that the mobile number mentioned on the intercepted parcel was registered in the name of Akram Jalaluddin Shaikh. However, the said subscriber could not be traced. On verification, that number was found to have been furnished as an alternate contact for another mobile number issued in the name of Shailendra Kumar Mishra, showing the address Flat No. 504, Neelgagan CHS, Sector-42, Nerul, Navi Mumbai, Thane. The number of Shailendra Kumar Mishra was, in turn, found to be linked as an alternate contact to a connection obtained in the name of Pankaj Jain, for which the alternate mobile number reflected was that of the present Applicant, Vinod Kumar Jaiswal. The address mentioned against Pankaj Jain was shown as Room No. 604, Neelgagan CHS, which upon verification was found to be non-existent, instead, the premises corresponded to Flat No. 504 at the same building. Further inquiry revealed that Shailendra Kumar Mishra had never resided at the said address, whereas the Applicant had previously occupied Flat No. 504, Neelgagan CHS on rent. This sequence of mobile connections and addresses establishes a direct nexus between the Applicant and the mobile numbers and premises associated with the seized parcels.

⁴ 2021 (4) SCC 1



4.3. The call detail records establish communication between the Applicant and co-accused Vinod Kumar Jaiswal on the date of delivery, with tower locations of their respective numbers showing that the location of phone no. 9004906119 of Vinod Kumar Jaiswal (issued in the name of his wife), when he exchanged calls with accused Anil Kumar, was at Prathmesh, Sec-28, Nerul, Navi Mumbai and the tower address/location of phone nos. 8291421565 and 8291420615 (parcel nos.) were also in same locality i.e. at Prathmesh, Sec-28, Nerul, Navi Mumbai. These facts, taken together, reveal the Applicant's complicity in the trafficking of MDMA in conspiracy with the co-accused.

4.4. During further investigation, accused Vinod Kumar Jaiswal and accused Anil Kumar Yadav remained absconding and could not be traced, leading the Court to initiate proceedings under Section 82 Cr.P.C. against both. In view of his past conduct, there exists a strong likelihood that, if released on bail, the Applicant may again attempt to evade the process of law.

4.5. In view of the gravity of the offence, the commercial quantity of contraband recovered, and the statutory bar contained in Section 37 of the NDPS Act, the Applicant does not satisfy the twin conditions for grant of bail.

5. The Court has considered the aforementioned submissions. At the outset, it is pertinent to note that in Bail Application No. 3730/2023 filed by the co-accused, Mohit Jaiswal, described as the main accused, was dismissed by this Court *vide* judgment dated 28th January, 2025. At the same time, this Court, by order dated 06th March, 2025, in Bail Application No. 4042/2024, granted bail to the co-accused Anil Kumar. It must thus be emphasized that



each bail application is to be examined on its own merits, having regard to the specific role and circumstances attributable to the individual accused.

6. As regards the Applicant, his implication as per the case of the prosecution, rests primarily on the disclosure statement of the co-accused Mohit Jaiswal and Anil Kumar. However, such statements, in view of the law laid down by the Supreme Court in ***Toofan Singh***, are in the *prima facie* opinion of the Court, not sufficient ground to deny the bail to the Applicant. It is further noted that there has been no recovery effected from the Applicant, nor was he present at the Post Office when Mohit Jaiswal allegedly attempted to take delivery of the parcel.

7. Unlike Mohit Jaiswal, the Applicant is not shown to have made any active enquiry regarding the parcels or any overt attempt to collect the same. Beyond the disclosure statements, the prosecution's case against the Applicant is confined to the alleged exchange of phone calls with the co-accused and the fact that his mobile number appeared as an alternate contact for a connection issued in the name of Pankaj Jain. These circumstances, in the opinion of this Court, are matters that would necessarily have to be tested during the course of trial.

8. The concept of 'possession' under the NDPS Act, as elucidated by the Supreme Court in ***Mohan Lal v. State of Rajasthan***,⁵ contemplates possession to mean either physical custody accompanied by *animus*, that is, knowledge and intention to exercise control over the contraband, or constructive possession based solely on such *animus*. Possession may be actual or constructive, but the essential element remains the accused's conscious knowledge and intent to retain dominion over the substance. In



the present case, *prima facie*, there is no evidence to show that the Applicant had knowledge of or control over the parcel or its contents. Applying the test laid down in ***Mohan Lal***, the requirement of ‘conscious possession’ is not made out at this stage. Consequently, the statutory presumption under Section 35 and the rigours of Section 37 of the NDPS Act are not attracted.

9. Further, it is noted that the Applicant has been in judicial custody since 22nd November, 2024. The supplementary chargesheet *qua* him has already been filed by the CBI. Further, the Applicant has no criminal antecedents. As for the CBI’s concern that the Applicant may abscond if released on bail, this Court is of the view that such apprehensions can be effectively addressed by imposing stringent conditions to ensure his continued presence during trial and to prevent any misuse of liberty.

10. In light of the above, the Court is inclined to enlarge the Applicant on the bail on furnishing a personal bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty Magistrate/Jail Superintendent and on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned Investigating Officer⁶;
- b. The Applicant 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;
- c. The Applicant shall under no circumstance leave the country without the prior permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when

⁵ (2015) 6 SCC 222

⁶ “IO”



directed;

e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;

f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

g. The Applicant shall report to the concerned IO on the second Friday of every month to mark his presence, at 4:00 PM, and will not be kept waiting for more than an hour.

11. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial or be taken as an expression of opinion on the merits of the case.

13. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

OCTOBER 8, 2025/ab