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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 06.12.2025**Date of Decision: 19.12.2025*

+ CRL.M.C. 4043/2025

STATE NCT OF DELHI

.....Petitioner

Through: Mr. Akhand Pratap Singh,
Special Counsel with Mr. Shashi Shekhar,
Ms. Samridhi Dobhal, Mr. Krishna Mohan
Chandel, Mr. Hritwik Maurya, Mr. Mayank
Kaushik, Advs, and I.O, Shailesh Kumar,
Insp. Rahul Kumar, Special Cell, TYR

versus

MAYANK JAIN

.....Respondent

Through: Mr. B. S. Jakhar, Mr. Vikram
Singh Jakhar, Mr. Amit Tiwari, Ms. Bhawna
Jakhar, Mr. Neeraj Jakhar, Mr. Viraj Rathee,
Ms. Aastha Gautam, Mr. Mohit Yadav, Ms.
Nidhi Jakhar, Mr. Shubham Dabas Advs.

CORAM:**HON'BLE MR. JUSTICE AJAY DIGPAUL****J U D G M E N T**

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1. The present petition has been filed by the petitioner/State/prosecution against the respondent/accused *Mayank Jain* under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 482 of the Code of Criminal Procedure, 1973²), read with Section 483(3) of the BNSS (erstwhile Section 439(2) of the CrPC) seeking setting aside of the order dated 14.05.2025 passed by learned ASJ, Special Judge, NDPS, Patiala

¹ Hereinafter "BNSS"² Hereinafter "CrPC"



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House Court, New Delhi³ in application seeking anticipatory bail to respondent in FIR No. 455/2024 dated 02.10.2024, under Sections 8/20/21/25/27(A)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985⁴, PS - Special Cell, Delhi.

Factual Matrix

2. The case is based on a secret information received by the Special Cell on 01.10.2024. Acting on this information, a police team led by SI Abhishek Joshi conducted a raid at House No. A-3, Khasra No. 386/2, Gali No. 2, Mahipalpur Extension, Delhi. Three persons, namely Tushar Goyal, Himanshu Kumar, and Aurangzeb Siddiqui, were apprehended when they came out of the premises. From their possession, the police recovered 5.640 kg, 5.240 kg, and 5.220 kg of contraband respectively, consisting of cocaine like substance. On their instance, the police searched the same building and recovered a further 547 kg of cocaine and 39.706 kg of hydroponic marijuana, all kept in the said premises.

3. On the basis of disclosures of these arrested persons, the police later apprehended one Bharat Kumar, a resident of Mumbai, who had arrived to receive the consignment. On 03.10.2024, Jatinder Singh Gill @ Jassi, a resident of Amritsar and an NRI settled in the United Kingdom for 27 years, was detained at Amritsar Airport and arrested. On 05.10.2024, a Fortuner vehicle used by Jatinder Singh Gill @ Jassi for movement in Punjab was searched, and 1.096 kg of contraband was recovered from it. The vehicle belongs to one Ravinder, the brother of alleged kingpin Virender Singh Baisoya @ Viru.

³ Hereinafter "learned ASJ/Special Judge"

⁴ Hereinafter "NDPS Act"



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4. Further recoveries followed in the investigation. On 10.10.2024, a consignment of 208 kg of suspected contraband was recovered from Ramesh Nagar, Delhi, packed inside “Chatpata Namkeen” packets. On 13.10.2024, another recovery of 518.18 kg of mephedrone was made from the premises of Aavkar Drug Pvt. Ltd., Plot No. 3708, GIDC Estate, Ankleshwar, District Bharuch, Gujarat.

5. The total recovery in the case reached 1289 kg of cocaine/mephedrone and 39.706 kg of hydroponic marijuana across Delhi, Gujarat, Punjab, and Mumbai. Fourteen persons were arrested, whose details, including addresses, dates of arrest and recovery linked to each of them, are recorded in the chargesheet.

6. During investigation, the police seized multiple DVRs and 29 mobile phones. Sixteen phones were analyzed by CERT-IN and data was retrieved. FSL reports confirmed the presence of cocaine, mephedrone, benzoylecgonine, and ganja in the seized samples. Results for some samples remain pending.

7. Investigation further revealed that alleged kingpins Virender Singh Baisoya @ Viru and Sandip Sansar Dhunay were operating an international drug cartel involving the United Kingdom, Malaysia, Pakistan, Thailand and Dubai. Email accounts of the fictitious firms used for drug distribution, Pharma Solution Services, RM Biochem and Life Saver Pharmawere traced to locations in Pakistan and Malaysia.

8. During the investigation, the police issued Notices under Section 67 of the NDPS Act to Mayank Jain and Anchit Jain, both stated to be operating from Thailand. They did not join investigation.



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Non-Bailable Warrants⁵ were issued against both on 07.01.2025, but execution failed as their houses in Delhi were found locked. Proceedings under Section 84 BNSS were initiated on 07.02.2025. A Look Out Circular was issued on 12.02.2025. They were detained at IGI Airport when they returned from Thailand on 27.04.2025, but due to interim protection granted by the Special Court, they were permitted to leave after identification.

9. Both Mayank Jain and Anchit Jain filed anticipatory bail applications on 02.04.2025 and 04.04.2025 respectively. The learned ASJ, on 15.04.2025, directed them to appear and join investigation with the mobile phones used by them for the last one year and granted interim protection.

10. On 01.05.2025, the High Court directed the learned ASJ to decide the pending anticipatory bail applications of both accused on 09.05.2025 or within one week thereafter. On 09.05.2025, the learned ASJ also recorded the statement of the Investigating Officer on oath, a step which the State asserts is legally impermissible at the anticipatory bail stage and amounts to conducting a “mini-trial”.

11. On 14.05.2025, the learned ASJ granted anticipatory bail to the respondent. On 16.05.2025, Mayank Jain was formally arrested and released the same day upon furnishing bail bonds, in view of the anticipatory bail order. The State thereafter filed the present petition seeking quashing and cancellation of the order dated 14.05.2025, alleging non-compliance by the accused, suppression of material facts and failure to join investigation.



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Submissions on behalf of the petitioner

12. Mr. Akhand Pratap Singh, learned SPP for the State submits that the instant FIR was registered, after recovery of a massive narcotics consignment from different locations. A coordinated operation from 01.10.2024 onward resulted in recovery of 39.706 kg hydroponic marijuana and a total 1,289 kg of cocaine/mephedrone from different locations including Mahipalpur, Ramesh Nagar (Delhi) and Ankleshwar (Gujarat).

13. It is submitted that the present case, against Mayank Jain, concerns the chain relating to 39.076 kg of hydroponic marijuana forming part of a transaction where the total value of narcotics has been assessed by the investigating team at around Rs. 10,000 crores, thus involving grave offences and commercial quantity attracting the rigors of section 37 NDPS Act.

14. The State contends that there is substantial *prima facie* evidence connecting Mayank Jain to the marijuana supply, which includes his admitted presence in Phuket, Thailand in June 2024 contemporaneous with the alleged conspiracy meeting; multiple witness statements under Section 180 BNSS from Ishant Bhatia, Gaurav Gambhir and Sagar Tuteja confirming that they saw Mayank Jain, along with Ritik Bajaj and Tushar Goyal, together in Phuket and identifying his Thailand mobile number as +66-961145467; the statement of travel agent Mukesh Mehra under section 180 BNSS that he booked tickets for Mayank Jain and Ritik Bajaj from Delhi to Phuket and was in contact with Mayank Jain on the same Thai number; and the statement of Tilak Sharma (PD) recorded under Sections 180 and 183 BNSS in



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which Tilak links Mayank Jain to marijuana consignments smuggled from Thailand by Tilak to India.

15. Further, the Call Data Records⁶ and WhatsApp data extracted from co-accused Tushar Goyal's phone show more than 600 contacts/call logs (calls/WhatsApp communication) between Mayank Jain's Thai number 66-961145467 and Tushar's device during the relevant period, as well as around 10 contacts/call logs with the number attributed to co-accused Anchit Jain, and that a WhatsApp voice-note dated 27.06.2024 from Tushar to this Thai number refers to “*“Veeru bhai se baat ho gayi hai...”*” and further instructs, “*...deliveries sambhal lena.*”, which is consistent with the prosecution case about Virender Baisoya and drug deliveries.

16. The State also points to a WhatsApp group including Mayank Jain and “Hunterz Lounge London c/o Veeru”, which is presented as further corroboration of cartel linkage. According to the prosecution, hotel records of Grand Shobha Hotel, Mahipalpur, showing guest entries between 29–31.08.2024 and 29–30.09.2024, corroborate the timing and location of marijuana deliveries at Mahipalpur in line with the disclosure of co-accused and the movements of carriers. It is also alleged that co-accused Himanshu, in disclosure, has specifically stated that on the instructions of Tushar Goyal he collected two suitcases of marijuana from Mahipalpur and that Mayank Jain's name features in that context, which is said to be supported by CDR analysis and FSL reports on the seized substance.

17. A Look-Out Circular⁷ was opened against both accused persons (Mayank Jain and Anchit Jain) on 12.02.2025, as they were

⁶ Hereinafter “CDRs”

⁷ Hereinafter “LOC”



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deliberately avoiding investigation and not obeying court directions requiring appearance before the IO. They remain non-cooperative throughout and never offered their working mobile phones despite repeated directions.

18. The petitioner further relies on precedents such as *Muraleedharan v. State of Kerala*⁸, *Union of India v. Rattan Mallik*⁹, *Union of India v. Ram Samujh*¹⁰, and *Anarul Sk v. State of West Bengal*¹¹ to contend that in NDPS cases involving commercial quantity, courts must adopt a strict approach and cannot grant bail without recording satisfaction on the twin requirements that there are reasonable grounds to believe the accused is not guilty and not likely to commit an offence while on bail.

19. The State further submits that Mayank Jain has not complied fully and *bona fide* with the directions of the learned ASJ as well as the IO. It is pointed out that on 15.04.2025, the learned ASJ directed him to produce the mobile phone used from June 2024 to October 2024, without deletion of any data, but that he produced only a device used since 22.03.2025 with a different IMEI number, which is alleged to be a deliberate attempt to withhold the very phone used during the conspiracy period, thereby frustrating investigation into communications with cartel members.

20. The learned ASJ, while granting anticipatory bail on 14.05.2025, relied primarily on discrepancies in the IO's oral replies, and ignored material evidence including CDRs, statements recorded under Section 180/183 of the BNSS, and the respondent's continued

⁸(2001) 4 SCC 638

⁹(2009) 2 SCC 624

¹⁰(1999) 9 SCC 429

¹¹SLP (CrL.) No. 12621/2024, order dated 19.09.2024



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non-cooperation. This resulted in a perverse order, contrary to settled law.

21. The prosecution also questions the genuineness of the alleged lost-phone complaint lodged with Royal Thai Police on 30.09.2024, in which Mayank claims to have lost his iPhone 15 Pro with Indian number 92895-29969 and other items. It is submitted that this complaint was filed just before 01.10.2024 seizure in Mahipalpur and suggests that the loss report is unverified and timed to create a defence, and part away with the incriminating digital evidence.

22. Further, the taxi driver Nitish Kumar, in his statement under Section 180 BNSS, confirmed that he picked up Tilak PD from the airport on both occasions and observed him carrying two suitcases upon arrival, but on departure he carried none. The State also places reliance on the statement of Tilak Prasad Sharma recorded under Section 183 BNSS, in which he stated that his nephew Tilak PD had informed him that he transported marijuana supplied by Mayank Jain and the respondent Anchit Jain from Thailand to Delhi. The prosecution asserts that this set of materials, taken collectively, forms a coherent narrative establishing that the marijuana moved through a chain starting in Thailand with the involvement of the respondent.

23. On these facts, the State contends that the impugned order was passed ignoring vital materials namely international conspiracy, multiple witness statements, CDR/WhatsApp logs, hotel records, disclosure statements, and the pattern of travel between Delhi and Phuket. It is argued that such an order, passed in disregard of section 37 NDPS and the magnitude of the offence, is a perverse order justifying interference of this Court, even in the absence of post-bail



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misconduct, as recognized in judgments on cancellation of bail where the initial grant is vitiated by serious infirmities.

24. The State submits that the liberty of an accused cannot override the societal interest in prosecuting grave NDPS offences, and that continuance of anticipatory bail in favour of Mayank Jain would seriously prejudice the investigation. Accordingly, the petitioner prays that the impugned order be set aside.

Submissions on behalf of the respondent

25. *Per Contra*, Mr. Amit Tiwari, learned counsel for the respondent submitted that the respondent has been falsely implicated based solely on inadmissible and uncorroborated disclosure statements of co-accused persons. As held by the Hon'ble Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu***¹², statements made to police officers under Section 67 NDPS Act are not admissible as evidence unless supported by independent recovery or corroboration. No such recovery from the respondent exists in this case.

26. It is submitted that the application for cancellation of anticipatory bail is wholly misconceived, legally untenable and bereft of any new or supervening circumstances arising after grant of bail and therefore deserves dismissal under the settled law.

27. It is submitted that the respondent is a 29-year-old, highly educated individual, and has been working in Phuket, Thailand as a salesman at Comfort Patong Hotel, earning his livelihood legitimately. He comes from a respectable, educated family, his father being a commerce graduate, qualified chartered accountant and management accountant, currently employed as Senior Vice-President with

¹² (2021) 4 SCC 1



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Safexpress. It is contended that he has deep roots in society and no criminal antecedents, and that his background and conduct belie the allegation that he is a member of an international drug cartel.

28. The respondent points out that his anticipatory bail application was considered at length by the learned ASJ, who passed a detailed, reasoned order on 14.05.2025 granting him anticipatory bail, after hearing both sides and going through the entire material including CDR, WhatsApp data, disclosure statements and witness statements.

29. The learned ASJ, while initially noting that the case against Mayank Jain related only to 39.076 kg of marijuana and not the cocaine/meth chain, repeatedly called upon the Investigating Officer, by orders dated 09.05.2025 and 13.05.2025, to clarify the alleged WhatsApp chats, provide data linking the Thai number to the respondent, and explain how exactly the chats related to the recovery of marijuana in the case. The order records that, even after such clarification, there was nothing on record to definitively show that the Thai number 66-961145467 belonged to Mayank Jain or that it had been confirmed through Thai authorities, and that the prosecution was proceeding essentially on assumptions about that number, Cyniq app report, and hearsay statements.

30. It is submitted that the foundation of the prosecution case is inadmissible disclosure statements of co-accused persons recorded under section 67 NDPS Act and hearsay statements, which cannot form the basis for either conviction or cancellation of bail. It is argued that confessional statements made to NDPS officers under section 67 have been held inadmissible as substantive evidence and cannot by themselves justify arrest or denial/cancellation of bail without independent corroboration in the form of recovery, discovery,



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financial trails or other credible evidence. It is argued that there is no recovery of any narcotic or psychotropic substance from him, from any premises under his control, or at his instance, and no financial dealings have been shown linking him to the seized contraband, and no independent material, apart from co-accused disclosures and CDR logs, connects him to the consignment of 39.076 kg marijuana or to the cocaine/mephedrone network.

31. The allegation regarding guest-register entries of Tilak Sharma and his statement under Section 183 BNSS is denied. The respondent has never met him, never stayed at Grand Shobha Hotel, and has no link with any delivery of contraband. The prosecution has not produced any CCTV footage, call data, travel records, messaging history or financial records showing the respondent's involvement.

32. On the alleged Thai mobile number and WhatsApp communications, the respondent submits that the entire prosecution theory is speculative and inconsistent. The investigating agency claims that Mayank Jain was using Thai number 66-961145467 and that more than 600 WhatsApp calls were exchanged between this number and co-accused Tushar Goyal, however, the very Cyniq app data relied upon by the prosecution shows that there is no WhatsApp account registered on that number at the relevant time, which makes it impossible for WhatsApp calls or voice-notes to have been exchanged through that number.

33. The respondent points out that the IO has not produced any proof as such to show that the Thai number is in Mayank's name or that it was being used by him. Meanwhile, Mayank has consistently stated that he used Indian number 9289529969 on his iPhone 15 Pro, which he lost in Thailand on 29.09.2024, and that he lodged a police



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complaint with the Royal Thai Police on 30.09.2024 detailing the loss of his phone, driving licence, cash and Indian identity documents, much before the recovery on 01.10.2024 and FIR registration in India.

34. It is thus argued that the State has itself admitted before the learned ASJ that the Thai report on the ownership and usage of 66-961145467, verification of the Thai police complaint regarding loss of phone, and verification of Mayank's employment in the hospitality industry in Phuket are all still awaited, which shows that the prosecution is trying to cancel anticipatory bail on an incomplete and unverified record.

35. The respondent also challenges the reliance on CDRs as a ground to cancel bail, especially in the absence of any recovery or financial link. It is submitted that mere CDRs/contact between accused persons, without any recovery or other incriminating material, cannot, by itself, justify denial of anticipatory bail, and that the evidentiary worth of CDR is to be evaluated at trial. It is also submitted that reasonable grounds exist to believe that Mayank Jain is not guilty of the alleged offences and that Section 37's threshold has been crossed for the purpose of bail.

36. On the legal principle for cancellation of bail, the respondent strongly submits that the parameters for granting bail and cancelling bail are distinct and that cancellation is a harsh measure.

37. Applying these principles, the respondent asserts that the State has not pleaded or proved any single instance of post-bail misconduct on his part. There is no allegation, much less any complaint or report, that he has contacted, influenced or threatened any prosecution witness, tampered with any evidence, or obstructed investigation after grant of anticipatory bail on 14.05.2025. On the contrary, the



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anticipatory bail order itself records conditions which he has complied with, wherein he has deposited his passport with the IO, marks his attendance at the concerned police station, joins investigation as and when directed, and has not left Delhi-NCR/India without court permission. The respondent underscores that several months have passed since the grant of anticipatory bail, during which he has maintained impeccable conduct.

38. The respondent further relies on the learned ASJ's observations that, at this stage, the data from Thailand regarding the Thai number and verification of his lost-phone report and job records is awaited, that there is no proved financial link with co-accused, that there is no previous involvement, and that there is no present connectivity on record between him and other co-accused except disputed digital traces and inadmissible Section 67 statements. In these circumstances, the learned ASJ held that Mayank Jain had crossed the bar of Section 37 NDPS Act for the limited purpose of anticipatory bail and admitted him to anticipatory bail.

39. Finally, the respondent submits that despite exhaustive extraction of digital material from various co-accused, the prosecution has not produced a single chat, voice message, image, document, transaction, or logistical detail recovered from any device that implicates him. The respondent has not been arrayed as an accused in the charge sheet, and the same underscores the absence of evidence against him. Therefore, he submits that materials relied upon by the State do not justify cancellation of bail, and that the prosecution's case against him remains speculative, uncorroborated, and unsupported by substantive evidence.



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40. The present petition raises no new fact, no post-bail conduct, and no allegation of misuse of liberty. It merely repeats the same allegations on which the learned ASJ has already applied his judicial mind. Therefore, the respondent submits that the petition is not maintainable and deserves dismissal.

Analysis and findings

41. Heard learned counsel for the parties and perused the material available on record including the compilation of judgments filed by the parties.

42. On a *prima facie* appraisal of the record, including the FIR, the charge-sheet, replies and the material placed as part of the present petition, what emerges is an extensive international drug trafficking enterprise functioning through two parallel supply chains, one relating to *cocaine/mephedrone* and the other relating to *hydroponic marijuana* into India.

43. The factual narrative shows that following the Mahipalpur raid of 01.10.2024, the investigation has traced a cartel/syndicate headed by Virender Singh Baisoya @ Viru and Sandip Sansar Dhunay, operating through shell firms and conduits across India and abroad, involving, *inter alia*, large cocaine/mephedrone recoveries in Delhi and Gujarat and the hydroponic marijuana recovery at Mahipalpur. Within this overall conspiratorial canvas, the material placed by the prosecution distinctly segregates two chains, attributing to the respondent a role only in the *marijuana chain*, but nonetheless as part of the same organized crime syndicate.

44. The first error that vitiates the impugned order lies in the manner in which the learned Special Judge treated this case as if it



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were an ordinary bail matter and not one attracting the rigors of Section 37 NDPS Act, despite undisputed recoveries of commercial quantity contraband. The order proceeds on the premise that since the respondent is linked only to 39.706 kg marijuana and not to the 1,289 kg cocaine/mephedrone, Section 37 is somehow diluted, whereas, in law, any offence under sections 20/21/29 involving commercial quantity squarely attracts Section 37 and mandates satisfaction of the twin conditions before grant of bail, including anticipatory bail. It is settled law that in cases involving commercial quantity, rigors of Section 37 NDPS Act have to be looked into, however, upon bare perusal of the impugned order, it is made out that the learned ASJ has casually referred to Section 37 in the concluding paragraph without stating as to how the rigors under the said provision stand satisfied.

45. The Hon'ble Supreme Court has repeatedly held that in NDPS cases involving commercial quantity, the Court must record a positive satisfaction that there are reasonable grounds for believing that the accused is not guilty and is not likely to commit an offence while on bail, and mere absence of direct recovery from the accused or perceived infirmities in investigation cannot, by themselves, justify the grant of bail. The impugned order does not record any such satisfaction on the material against the respondent, instead, it dilutes the statutory mandate on the strength, thereby reversing the burden implicit in Section 37.

46. The respondent's primary defence rests on characterizing the material as "inadmissible disclosure" and "hearsay", and on asserting that in the absence of personal recovery, financial trail or completed foreign verification, no reasonable ground exists to deny him anticipatory bail. This broad-brush approach ignores the settled



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distinction between evidentiary admissibility for purposes of conviction at trial, and the *prima facie* evaluative standard applicable at the stage of bail, especially under Section 37 where the Court must consider the totality of circumstances, including confessional statements, CDRs, travel records, hotel registers and the accused's own conduct to assess whether a strong nexus to the conspiracy is shown.

47. As regards the contention that the case against the respondent is built “solely” on Section 67 NDPS statements and hearsay disclosures of co-accused, the record does not support such claim. The charge-sheet reveals the chain of circumstances, including:

- a. Travel and presence of the respondent in Phuket in June 2024 alongside co-accused;
- b. Multiple witness/co-accused persons statements under sections 180 and 183 BNSS;
- c. Extensive digital communication from the Thai number attributed to the respondent with a central conspirator;
- d. Guest register entries and taxi-driver's statement consistent with the transport of marijuana consignments; and
- e. The respondent's non-cooperation in producing the relevant mobile device and his evasive conduct in the pre-arrest phase.

48. On the question of hearsay, the statement of Tilak Prasad Sharma (*uncle of Tilak PD*) under Section 183 BNSS, cannot be dismissed at this stage as mere hearsay in the manner the defence suggests. The statement records, with specificity, that his nephew, Tilak PD, was involved in transporting marijuana from Thailand to



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Delhi supplied by, *inter alia*, Mayank Jain and Anchit Jain and that Mahipalpur was the delivery node, which directly establishes the connection with the Mahipalpur recovery and with the travel/hotel records of Tilak PD.

49. It has been recorded that he accompanied his nephew to Thailand, where a person handed over two trolley bags to his nephew Tilak PD and that when he asked his nephew to whom the bags belong to, he responded that the same belongs to Mayank, Anchit and Ritik.

50. Further narration of events also show that after receiving the bags, both Tilak Prasad Sharma and his nephew travelled to Nepal through Sri Lanka. Following which, upon arrival at Nepal, nephew Tilak was caught upon checking by the police there and the other Tilak Prasad Sharma (uncle) met another person outside the airport who took the bags from him, and gave him a sum of 7,000/- (in Nepal currency).

51. Though the respondent contests this as hearsay, the said statement is judicially recorded which, at the present stage, adds a further link in the evidentiary chain connecting the Thailand suppliers (including the respondent) to the specific 39.706 kg marijuana recovery. With regards to the same, this Court is of the considered view that the said contention of terming the statement of Tilak Prasad Sharma as hearsay cannot be accepted as he was present at the hotel where the exchange of bags took place and his narration shows that he was a witness to the handing over of the bags that contained the contraband.

52. The statement recorded under Sections 180/183 BNSS notes that the statement has been recorded in his own hand, as narrated by



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the witness, voluntarily and without addition or deletion, further adding to its reliability at this stage. Tilak PD's non-availability in India, because he is in custody in Nepal, is not a ground at this stage to efface the probative weight of Tilak Prasad's sworn statement when seen with independent corroboration from hotel registers and the taxi driver Nitish Kumar's statement.

53. Nitish Kumar, in his statement under Sections 180/183 BNSS, specifically narrates that he twice picked up Tilak PD from the airport and dropped him at Grand Shobha Hotel, Mahipalpur, observing that he arrived with two suitcases and left without any luggage, which is consistent with a one-way movement of contraband. This narrative is independently supported by seizure of the Grand Shobha guest registers which reflect entries of Tilak PD for the relevant periods (29–31.08.2024 and 29–30.09.2024), thereby corroborating the prosecution theory that Mahipalpur was the reception point of marijuana consignments brought from Thailand.

54. The learned ASJ, while referring to these materials, chose to discount them largely on the footing that they were disputed, hearsay or required further foreign verification, but did not examine their cumulative effect in terms of establishing a *prima facie* chain linking Thailand (source), carriers (Tilak PD) and Tilak Sharma, reception point (Mahipalpur) and the domestic handlers (Tushar/Himanshu and others).

55. This approach is legally unsustainable because, at the stage of anticipatory bail, in light of applicability of Section 37 NDPS, the Court is required to evaluate whether the materials, disclose grounds for believing that the accused is involved and not to test them to the standard of proof beyond reasonable doubt as if in a mini-trial.



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56. The learned ASJ's reliance on the inadmissibility of Section 67 statements as per *Tofan Singh (Supra)* is also misplaced in the context of cancellation. While *Tofan Singh (Supra)* restricts the use of such statements as substantive evidence at trial, it does not preclude the Court, at the stage of bail, from taking into account the broader matrix comprising Section 67 statements, co-accused disclosures, and collateral corroboration through CDRs, travel and financial records to assess the existence of a *prima facie* case, particularly when those statements are not the sole foundation but one strand in a composite chain.

57. In this case, the disclosure of co-accused Tushar Goyal specifically implicates Mayank Jain as a conspirator in Phuket, stating that a meeting was held in June 2024 with Virender Baisoya, Mayank, Anchit and Ritik to plan the marijuana-from-Thailand chain, with Mayank and Anchit responsible for arranging marijuana in Thailand, Virender Baisoya for moving it into India, and Tushar for receiving and distributing it domestically. This is not an isolated statement but gains probative force when read with the independent BNSS witness statements of Ishant Bhatia, Gaurav Gambhir and Sagar Tuteja, who all confirm seeing Mayank Jain in Phuket with Ritik and Tushar during the relevant period and identify his Thai number as +66 961145467.

58. The statements of Ishant, Gaurav and Sagar under Sections 180/183 BNSS demonstrate - (a) contemporaneous presence of Mayank with co-conspirators in Phuket; (b) social association sufficient to infer familiarity and potential collaboration; and (c) the Thai number used by him in that period. These are not statements of



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co-accused to police, but of independent witnesses, and their evidentiary value, at this stage, is qualitatively different.

59. The statement of travel agent Mukesh Mehra further reinforces this chain by confirming that he booked flights from Delhi to Phuket for, *inter alia*, Mayank Jain and Ritik Bajaj and that he remained in touch with Mayank on the same Thai number. In addition, WhatsApp chats between Mukesh and Mayank show continuous interaction regarding travel logistics, which is consistent with the prosecution narrative that the Phuket visits were not leisure trips but were part of a pattern of coordinated travel by identified cartel members.

60. Turning to the digital evidence, the CDRs and WhatsApp extraction from co-accused Tushar Goyal's device show in excess of 600 contacts/call logs (calls/WhatsApp interactions) between the device and Thai number 66 961145467 saved as "MJ Phuket", as well as around 10 contacts/call logs with a number saved as "Anchit Phuket". The prosecution has also relied on a transcription of a WhatsApp voice note dated 27.06.2024, in which Tushar, addressing the Thai number, refers to "*Veeru bhai se baat ho gayi hai*" and instructs that "*deliveries sambhal lena*", which is in line with the broader allegation of Virender Baisoya's leadership and the respondent's role in handling marijuana-related deliveries.

61. The respondent's principal attack on this digital material is twofold. *First*, that there is no conclusive proof from Thai authorities that the number 66-961145467 is registered in his name, and second, that the Cyniq app report suggests that no WhatsApp account is active on that number, allegedly rendering the WhatsApp call and voice-note theory impossible. Both aspects were taken at face value by the learned ASJ to discredit the prosecution's case, without having regard



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to the point that these were matters of appreciation of evidence better left to trial and that the foreign verification was pending.

62. As to identity of the number, the prosecution has never claimed that Thai subscriber details have already been received, on the contrary, it has consistently stated that verification from Thai authorities regarding ownership and usage of that number, as well as verification of the Thai police “lost phone” complaint, is still awaited. In such a situation of ongoing investigation, the convergence of independent witnesses identifying the respondent with that number, the travel agent’s confirmation, and the saving of the number in Tushar’s phone as “MJ Phuket” cumulatively create a strong *prima facie* link which the learned ASJ could not have brushed aside merely because formal foreign authority records are yet to be procured.

63. The Cyniq app argument also does not carry decisive force at this stage. The prosecution’s case is built on the data retrieved by CERT-In from Tushar’s handset, which shows WhatsApp interactions with the Thai number, including the voice note and group details, the fact that at some subsequent time the App shows “no WhatsApp account” on that number may at best create a matter of cross-examination and forensic interpretation, but cannot, at the bail stage, be treated as irrefutable proof that such communications never existed. The learned ASJ effectively elevated this discrepancy to the status of a conclusive exculpatory fact, thereby substituting its own factual inferences for a proper trial process, which is impermissible in anticipatory bail jurisdiction, especially in matters attracting rigors of Section 37.

64. The respondent’s reliance on his alleged Thai lost-phone complaint dated 30.09.2024, claiming loss of his iPhone 15 Pro with



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Indian number 9289529969 on 29.09.2024, was similarly accepted by the learned ASJ as a significant mitigating factor, despite the prosecution having specifically pointed out that the authenticity and provenance of this document are unverified. The timing of the complaint, just one day before the Mahipalpur seizure on 01.10.2024, and the respondent's subsequent failure to produce the phone used from June to September 2024, raise serious doubts that ought to have weighed against, and not in favour of, the grant of anticipatory bail.

65. Importantly, the learned ASJ had, by order dated 15.04.2025, directed the respondent to produce the mobile phone used by him for the last one year. Instead of complying, the respondent produced only a device used since 22.03.2025, with a different IMEI number, thereby effectively withholding the handset allegedly used during the period of meeting in Phuket and the subsequent conspiracy, a conduct which the prosecution is justified in characterizing as deliberate frustration of investigation.

66. The same pattern is mirrored in the conduct of co-accused Anchit Jain, who produced a damaged phone allegedly broken in an accident in Thailand, an assertion not supported by any accident report or corresponding IMEI change in the CDRs. The investigation's analysis of Anchit's CDRs shows no handset change on the date of the alleged accident, contradicting his explanation and indicating that both he and Mayank have avoided production of their devices covering the conspiracy period, a factor which the learned ASJ recognized but then inexplicably discounted in favour of the respondents.

67. A common defense has been put forth by both accused persons, namely, Anchit Jain and Mayank Jain, regarding the unavailability of their mobile phones during the relevant period. While accused Anchit



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Jain has claimed that his phone got damaged in an accident, co-accused Mayank Jain has stated that his device was lost. This coincidence in their respective explanations raises serious doubts regarding the veracity of their claims and the possibility of deliberate suppression or destruction of material evidence cannot be ruled out at this stage.

68. The respondent's subsequent claim of full cooperation and regular attendance after grant of anticipatory bail cannot cure the earlier non-cooperation and deliberate non-production of material evidence. While post-bail conduct is a significant factor in ordinary cancellation cases, in NDPS matters the Hon'ble Supreme Court has clarified that where the initial grant of bail is vitiated by ignoring mandatory statutory requirements or by a perverse appreciation of material, cancellation may be justified even in absent of subsequent misuse of liberty.

69. Nor can the respondent draw substantive benefit from the fact that he was not arrested when he first arrived in India in April 2025 and was permitted to leave by reason of then subsisting interim protection. The record shows that NBWs had been issued against him on 07.01.2025 and proclamation proceedings under Section 84 BNSS initiated on 07.02.2025, but their execution remained unfruitful as his residence was found locked repeatedly, indicative of deliberate avoidance of process rather than *bona fide* unawareness.

70. The LOC issued on 12.02.2025, his subsequent detention at IGI Airport on 27.04.2025 and release solely because of interim protection granted by the learned ASJ, do not negate the fact that prior thereto he had chosen not to respond to multiple notices and had allowed warrants and proclamation to be issued. It is a settled law that grant of



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anticipatory bail is disapproved to accused persons who had persistently evaded process despite bailable and non-bailable warrants and proclamation, a principle of equal, if not greater force in NDPS matter of the present magnitude.

71. The respondent's attempt to portray himself as a young, gainfully employed hotel worker in Phuket with deep social roots, no criminal antecedents and no proven financial trail, can neither neutralize the serious *prima facie* material nor dilute the statutory rigors of Section 37. Absence of prior criminal record or of traced financial flows, while relevant, cannot override the specific, converging *indicia* of participation in an organized drug syndicate where roles are compartmentalized and financial channels often operated through third-party or crypto mechanisms such as USDT, as alleged here.

72. The record expressly states that charges for transportation of marijuana from Thailand to India were being paid to Virender Baisoya in USDT by Mayank Jain and his associates, with Tushar receiving his share from Virender Baisoya. The mere fact that this USDT trail requires further forensic and international cooperation does not make the allegation illusory, rather, it underscores that the investigation *qua* the respondent is still very much live and that custodial interrogation, may be required to unearth the truth.

73. The learned ASJ, also erred in treating pending aspects of investigation, such as FSL results for some samples, full data retrieval from DVRs and remaining mobile phones, and foreign verification regarding the Thai number, the lost-phone complaint and the respondent's employment record, as factors favouring bail. In cases of transnational drug trafficking involving sophisticated methods and



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multiple jurisdictions, investigation is often protracted, and the fact that certain reports are awaited, far from weakening the case, reinforces that the investigative agencies have not yet exhausted their avenues, and that premature insulation of a key suspect through anticipatory bail may seriously prejudice further investigation.

74. The learned Special Judge placed unnecessary emphasis on the absence, as on date, of a “proved” financial link between the respondent and co-accused and on the absence of prior involvement, to conclude that the respondent had “crossed the bar” of Section 37, even while acknowledging that key verifications from Thailand were pending. This inversion of statutory burden, demanding the prosecution to completely negate all conceivable doubts at the bail stage in a commercial quantity NDPS case amounts to substituting the Section 37 standard of “reasonable grounds to believe not guilty” with a standard of “no material at all connecting the accused”, which is contrary to binding precedent.

75. The argument by the respondent that CDRs, standing alone, cannot justify denial of anticipatory bail overlooks the prosecution’s use of those records in this case. Here, CDRs and WhatsApp logs are not the sole incriminating factor, instead they are part of a coherent matrix alongside direct witness accounts, travel records, hotel registers, recovery at Mahipalpur, co-accused disclosures and the respondent’s own obstructive conduct in relation to his devices and presence in India, which together cross the *prima facie* threshold required to attract the bar under Section 37.

76. Equally misconceived is the respondent’s suggestion that the statement of IO recorded on oath by the learned ASJ, somehow exonerates him or restricts the case against him to “only” 39.706 kg



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marijuana. The IO's statement merely clarifies the distribution of responsibility between the cocaine/mephedrone and marijuana chains and it does not whittle down the gravity of the marijuana chain, which, being of commercial quantity and part of an international conspiracy, independently triggers the most stringent bail standards.

77. The practice adopted by the learned ASJ, of recording the IO's statement on oath at the anticipatory bail stage, and then heavily relying upon perceived discrepancies therein, resembles conduct of a "mini-trial" which the Hon'ble Supreme Court has repeatedly cautioned against. Instead of assessing whether the material as a whole reveals reasonable grounds for believing the respondent's non-guilt, the learned ASJ embarked upon a meticulous fault-finding with the prosecution's yet-incomplete investigation, thereby exceeding the proper remit of anticipatory bail jurisdiction.

78. The respondent's argument that his anticipatory bail application was earlier challenged by the State and later withdrawn is also misconceived. The present petition assails the final anticipatory bail order dated 14.05.2025, passed after the earlier High Court proceedings, on substantive grounds including misapplication of Section 37, misreading of the evidentiary matrix and it is not a disguised appeal against interim orders, and is squarely maintainable.

79. The plea that absence of any post-bail misconduct by the respondent should immunize him from cancellation cannot prevail in the face of a clear statutory bar and a perverse order. While ordinarily cancellation is predicated on supervening circumstances, in NDPS cases involving commercial quantity and organized crime, the Hon'ble Supreme Court has recognized that where the original grant itself ignores mandatory statutory parameters or omits consideration of vital



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incriminating material, the High Court may justifiably intervene to set aside such an order in the interest of the administration of criminal justice.

80. The scale of the present seizure, 1,289 kg cocaine/mephedrone and 39.706 kg hydroponic marijuana across multiple States, coupled with the use of shell companies, foreign email infrastructure traced to Pakistan and Malaysia, and the roles attributed to multiple actors including the respondent, leaves little doubt that this is not an isolated case but part of a deeply entrenched international narcotics network. In such circumstances, the balance between individual liberty and societal interest tilts decisively in favour of ensuring an unfettered and effective investigation, consistent with the legislative intent underlying Section 37.

81. The respondent's assertion that he was merely a hotel employee in Phuket and that his presence there was innocuous travel is belied by the cumulative material indicating that Phuket served as the meeting point where the marijuana chain was conceptualized and operationalized by specific individuals, all now either arrested or absconding in the same case. A person repeatedly found in the company of such identified conspirators at the same foreign location and time, communicating intensively through a common foreign number and thereafter linked through multiple independent statements and digital trails, cannot, at this stage, be treated as a neutral bystander purely on his own self-serving description.

82. The respondent's argument that Sections 180 and 183 BNSS statements of Tilak Prasad Shrma and other witnesses cannot be relied upon overlooks that such statements are recorded before the judicial officers, carry inherent safeguards of voluntariness and authenticity,



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and are expressly designed by the legislature to facilitate collection and preservation of testimony during investigation. To label them “hearsay” in a generic sense and ignore their specific corroborative value at the bail stage is contrary to both statutory design and settled bail jurisprudence.

83. Similarly, the attempt to trivialize the Grand Shobha Hotel entries as neutral guest records ignores their temporal and personal alignment with the narrative given by Tilak PD’s uncle and taxi driver Nitish, as well as with the timing of the Mahipalpur recovery. When a carrier is twice logged at the same hotel around the suspected delivery windows, with corroborative evidence of him arriving with, and leaving without, substantial luggage, the inference that the premises were used as a transit point is not only reasonable but compelling at this stage. Viewed cumulatively, this Court is of the view that there is sufficient material on record to hold a *prima facie* view that the respondent is involved in the alleged offence as the material against the respondent discloses:

- a. Antecedent conspiracy in Phuket, with named participants;
- b. Disclosure statements of co-accused persons and witnesses, which corroborate with other evidences;
- c. His identified presence and communications in that location and period;
- d. Repeated digital contact with a principal domestic handler and other co-accused persons;
- e. A defined role in arranging marijuana in Thailand;
- f. The use of carriers to transport marijuana to Mahipalpur;



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- g. Seizure of a commercial quantity marijuana consignment at that location consistent with the conspiratorial plan; and
- h. Subsequent evasive conduct relating to notices, warrants, proclamation and production of mobile devices.

84. These elements, taken together, negate any ground for believing that the respondent is not guilty of the alleged offence for purposes of Section 37, and certainly do not justify an order insulating him from custody through anticipatory bail.

85. The impugned order, in focusing on perceived investigative lacunae and pending foreign verifications, and in treating disputed defence material such as the Thai lost-phone complaint and Cyniq app report as if conclusively exculpatory, effectively reversed the statutory presumption against grant of bail in commercial quantity NDPS cases. By doing so without recording the statutorily mandated satisfaction on the twin conditions under Section 37, and by failing to consider the depth of material connecting the respondent to the marijuana chain, the impugned order is on the face of it perverse, warranting interference.

86. In light of the foregoing analysis, this Court is satisfied that the State has demonstrated that the grant of anticipatory bail to the respondent was in clear disregard of the rigors of Section 37 NDPS Act, ignored material linking him to an international marijuana trafficking chain, and rested on an impermissible mini-trial of incomplete evidence.

87. Consequently, the petition is allowed, the impugned order dated 14.05.2025 granting anticipatory bail to the respondent in FIR No. 455/2024, is set aside.

Signature Not Verified

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88. Accordingly, the petition stands disposed of along with the pending application(s), if any.

AJAY DIGPAUL, J.

DECEMBER 19, 2025/ar/ryp

Signature Not Verified

Signed By: SHI/PI CRL.M.C. 4043/2025
Signing Date: 20.12.2025
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