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

+ **BAIL APPLN. 2310/2025**

PAWAN

.....Petitioner

Through: Mr. Kameshwar Mishra, Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

17.09.2025

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1. First Bail Application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Applicant/Petitioner, Pawan for grant of Regular Bail in FIR No. 142/2024 under Section 22/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter referred to as 'NDPS' Act*), registered at Police Station Prashant Vihar.
2. It is submitted that the Applicant is 25 years old and is doing a private job for his livelihood and is also trying to pursue his further education. His father has expired and he is the only source of livelihood for his family members including mother and unmarried sister. He is in judicial custody since 29.08.2024.
3. The investigation is complete and the Charge-Sheet has been filed. The Applicant is no longer required for further investigations. He is not involved in any other case and has clean antecedent. The present case is



false, frivolous and is based on baseless allegations. He has been falsely implicated in the present case.

4. *As per the Prosecution*, one Abu Talib was arrested with narcotic drugs. He initially disclosed the name of one Sachin from whom he has purchased the drugs. He also disclosed that initially, Shahid and Sonu were selling narcotic drugs but after their arrest, their partners, namely, Vikrant and Babu, have started to sale the same. Subsequently, he named one Shahid as having introduced him to the present Applicant and further stated that the Applicant used to sell injections to him. A Notice under Section 67 of NDPS Act, was served upon the Applicant, to join the investigations. He was released due to insufficient evidence.

5. As per the Prosecution, the CDR of Vikrant, Pankaj @ Babu and the present Applicant, were obtained by the Investigating Officer and after analysing the same, he came to know that the Applicant was in touch with Vikrant and Babu. He was again served with a Notice under Section 67 NDPS Act. He joined the investigation but was now arrested.

6. At the instance of the Applicant, the Investigating Officer conducted a raid in a room situated at Fish Market, Mukandpur, Delhi, from where allegedly Vikrant and Babu, were selling the narcotic drugs. The room was locked. The Investigating Officer seized 48 Avil Injection, 50 syringe and 110 disposable needles.

7. The Investigating Officer also found some Chat in the mobile phone of the Applicant with Vikrant wherein he was demanding narcotic drug from Vikrant. The Investigating Officer also claimed that the Applicant had paid some amount to Vikrant, through one Rahul, for the narcotic drugs.

8. Later, Vikrant was arrested and his mobile phone was checked in



which the Chat between the Applicant and Vikrant, was found deleted from his phone. No further evidence is available against the Applicant.

9. The entire case of the Prosecution against the Applicant, is based on unverified facts and documents.

10. It is further submitted that even as per the case of the Prosecution, no contraband or narcotic drugs, have been recovered from the person of the Applicant or from his premises. He was arrested merely on the basis of disclosure statement of the co-accused Abu Talib. As per the Prosecution case itself, it is the other co-accused Vikrant, Pankaj @ Babu, Namia, Raja, Pandit @ shooter etc., who were selling the narcotic drugs from the aforesaid premises from where the alleged recovery of the injections and disposable needles, was made. No narcotic drugs of any kind, were seized even from there.

11. The Investigating Officer has not verified the fact that the alleged account of Rahul, through which it is alleged that the Applicant had made payment for narcotic drugs to Vikrant, is actually related to the Applicant or not. There is no basis for the Investigating Officer to have come to the conclusion that the alleged payments were made by the Applicant, without any cogent evidence. The alleged Chats between the Applicant and Vikrant, were deleted and were not recovered from the phone of the Vikrant. Even otherwise, there is nothing in Chats, which can establish that the Applicant was demanding narcotic drug in commercial quantity or for commercial purpose.

12. The Bail is sought on the **grounds** that from the material available on record, the bar under Section 37 of NDPS Act, is not applicable. No contraband or narcotic drug was recovered from the Applicant. The



WhatsApp Chats alleged to have taken place between the Applicant and the co-accused, also does not bring forth any alleged conspiracy between them.

13. Reliance is placed on Bharat Chaudhary v. Union of India, (2021) 20 SCC 50 wherein it was held that the printouts of WhatsApp messages in the absence of scientific reports, cannot be treated as sufficient material to establish a live link between the co-accused at the stage of consideration of Bail Application.

14. The other incriminating evidence is the disclosure statement of the co-accused, Abu Talib, which is not admissible in evidence, for which, reliance is placed on Toofan Singh vs. State of Tamilnadu, (2021) 4 SCC 1.

15. It is contended that there is *prima facie* no material against the Applicant reflecting his involvement in a conspiracy with the other co-accused persons.

16. There was no incriminating evidence found in the mobile of the Applicant. The allegations made against the Applicant, if any, are under Section 29 NDPS Act and not under Section 22 NDPS Act. There are reasonable grounds to believe that the Applicant is not guilty of the alleged offence.

17. Reliance is placed on Dalip Singh vs. State (NCT of Delhi), 2019 SCC OnLine Del 6494 wherein in similar circumstances, it was held that the bar of Section 37 of NDPS Act, would not be applicable. Reliance is also placed on Vinay Dua vs. State Govt. of NCT of Delhi, 2025: DHC: 4955; State of Rajasthan vs. Balchand, (1977) 4 SCC 333; Sanjay Chandra vs. CBI, (2012) 1 SCC 40; Jalauddin Khan vs. Union of India, Manish Sisodia vs. Director of Enforcement (SLP No.8772/2024 dated 13.08.2024) & Arvind Kejriwal vs. Director of Enforcement (Crl. A. No. 2493/2024 dated 09.08.2024);



Yudhveer Singh Yadav vs. CBI; Sanjay Chandra vs. CBI, (2012) 1 SCC 40; Gurbaksh Singh Sibbia vs. State of Punjab, (1980) 2 SCC 565 and P. Chidambaram vs. Directorate of Enforcement, (2020) 13 SCC 791; Peeyush Kumar Jain vs. Union of India, (2022) 121 ACC 448; Gurcharan Singh vs. State, AIR 1978 SC 179.

18. A prayer is, therefore, made that the Applicant be granted Regular Bail.

19. **The Status Report has been filed on behalf of the State** wherein it is submitted that while HC Anshul along with Ct. Chetan, was on patrolling duty and were checking vehicles near Tikona Park, Village Rajapur, Rohini, Sector-9, Delhi, they saw a person (Abu Talib) with a bag coming towards them but suddenly he turned back and started running. On suspicion, he was apprehended and on checking, Buprenorphine Injection 2 Ml LEEGESIC & Pheniramine Maleate Injection IP Avil & syringe, were recovered from his possession. Notice under Section 50 of NDPS Act was served and thereafter, seizure of the incriminating material, was made.

20. FIR No. 142/2024 under Section 22/25/29 of NDPS Act was registered at Police Station Prashant Vihar. At the time of personal search of Abu Talib, one slip having a mobile number of the Applicant, Pawan, was recovered from his pocket. However, since Abu Talib was not having any mobile phone, the connectivity of the same could not be established.

21. Applicant Pawan joined investigations pursuant to Notice under Section 67 of NDPS Act. During interrogation, he disclosed that he purchased the contraband from one Vikrant. His mobile was analyzed in which some text Chats were found.

22. During interrogation, his mobile phone Vivo IMEI No.



863883049104677/863883049104669 having mobile No. 9311604416, was checked and it was found to have some Chats with Vikrant on his Mobile No. 8743061826 whereby he was making demands of injections. There being sufficient evidence, Pawan was arrested and was further interrogated. At his instance, a raid was conducted at the hide out of Vikrant in Machi Market, Mukundpur Part 1 from where 48 Avil Injections, 50 Single-use Syringes and 110 Disposable Needles, were recovered. During further investigations, Vikrant, Sonu, Satya Prakash Tiwari and Manoj Kumar (Manager of the NGO) were arrested. The Anticipatory Bail was sought by other co-accused, Amit Khanna, Satvinder Kaur and Tejinder Kaur, which have been dismissed by this Court on 07.07.2025.

23. The Prosecution submits that the evidence against Pawan is that he was using Abu Talib as Drug Peddler. There was physical connectivity as the slip containing Mobile Number of Pawan, was recovered from Abu Talib. Witness Shahid @ Babu has given a Statement under Section 161 of the Code of Criminal Procedure, 1973 against the Applicant. Further ,connectivity with Vikrant through text messages has been established whereby he was demanding contraband. There is also a Disclosure Statement of co-accused Vikrant against him.

24. **The Bail is opposed** on the ground that the offence is serious in nature and is in respect of commercial quantity. There is sufficient evidence against him to prove his involvement in this crime. He is well known to all persons involved in this crime and he knows the consequences of involvement. The Applicant is the link between the source of contraband and the drug peddler, who is selling the same. It is further submitted that the Bail be dismissed considering the gravity of the offence.



Submissions heard and the record perused.

25. As per the Prosecution Case, co-accused Abu Talib had been apprehended from whom Buprenorphine Injection 2 Ml LEEGESIC & Pheniramine Maleate Injection IP Avil & syringe, were recovered, which on weighing were found to contain 108 grams of contraband. From his possession, slip containing Mobile Number of the present Applicant, was recovered. However, no phone connectivity could be established as the mobile number of Abu Talib, was not known. Essentially, the evidence against the Applicant, is the Disclosure Statement of the co-accused, Abu Talib, though there is no phone connectivity established with him.

26. The case of the Prosecution further was that there were some text messages exchanged between the Applicant and the co-accused, Vikrant and also the disclosure statement of Vikrant. Admittedly, no recovery of contraband was made from the Applicant. The alleged Chats were found deleted from the Mobile Phone of Vikrant. He is in judicial custody since 29.08.2024. Charges have already been framed. His custodial interrogation is not required.

27. Considering the nature of allegations and also the surrounding circumstances, the Applicant/Accused is granted Regular Bail, on the following terms and conditions:

- a) The Petitioner/Accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The Petitioner/Accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The Petitioner/Accused shall provide his mobile



number/changed mobile number to the IO concerned, which shall be kept in working condition at all times;

d) The Petitioner/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.

e) In case, the Petitioner/Accused changes his residential address, the same shall be intimated to the learned Trial Court and to the concerned I.O.

28. The copy of this Order be communicated to the concerned Jail Superintendent, as well as, to the learned Trial Court.

29. The Bail Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

SEPTEMBER 17, 2025/RS