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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2367/2025 & CRL.M.A. 18821/2025**
DHARMENDER @CHACHAPetitioner

Through: Ms. Sushma Sharma, Mr. Girish
Kumar Sharma, Mr. Dhruv Kumar
Sharma, Ms. Aayushi Gaur Stuti and
Mr. R. Sahil, Advocates.

versus

THE STATE NCT OF DELHIRespondent

Through: Mr. Ajay Vikram Singh, APP.
SI Mahesh with ASI Ravinder, P.S.
Bhalswa Dairy, Delhi.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
18.08.2025

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1. The present application filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023¹ (formerly Section 482 of the Code of
Criminal Procedure, 1973²) seeks regular bail in FIR No. 82/2025 registered
under Sections 21, 61 and 85 of the Narcotic Drugs and Psychotropic
Substances Act, 1985,³ at P.S. Bhalswa Dairy. A chargesheet has been filed
in the present FIR against the Applicant under Section 21(b) of the NDPS
Act. The Applicant's previous bail applications have been dismissed by the
Sessions Court by orders dated 28th March, 2025 and 30th May, 2025.

2. Briefly, the case of the prosecution is as follows:

2.1. On 29th January, 2025, while patrolling in Beat No. 6, Janta Vihar,
Mukundpur, Head Constable Ram Prem and Constable Rohitash
apprehended the Applicant, Dharmender @ Chacha, who attempted to flee

¹ "BNSS"

² "Cr.P.C."



on noticing the police party. Upon search, one small transparent plastic pouch tied with a white thread, containing a brown-coloured substance, was recovered from the pocket of the applicant. On inquiry, the applicant disclosed that the substance was smack. Information was conveyed to the Duty Officer, and Sub-Inspector Mahender Koli. The SI subsequently reached the spot and the Applicant along with the recovered pouch was produced before him. Attempts were made to engage passers-by as public witnesses but no one agreed.

2.2. The Applicant was then served a notice under Section 50 NDPS Act and apprised of his legal rights. While the Applicant declined to be searched before a Magistrate or Gazetted Officer, he was nevertheless searched in the presence of the ACP, Swaroop Nagar, however, no more substances were recovered besides the previously recovered pouch. The pouch, on testing with a field-testing kit, was found to contain heroin (smack), weighing 16.57 grams including the plastic. The same was sealed and seized as case property.

2.3. The Applicant allegedly confessed during interrogation that he was addicted to smack, which he purchased from a person known as Kaliya near Azadpur Railway Station, and that he also sold small packets for profit. He was arrested in accordance with law and sent to judicial custody. Samples were duly drawn from the recovered substance after making an application to the Court, which were then marked, sealed, and sent to FSL Rohini for expert analysis. Upon receiving the FSL results, efforts were made to trace the source of supply. However, the alleged supplier, Kaliya, has so far remained untraced.

³ “NDPS”



2.4. Based on the above, chargesheet under Section 21(b) NDPS Act was filed against the Applicant.

3. Counsel for the Applicant submits that the Applicant has been falsely implicated and relies on the following grounds in support of the bail application:

3.1. The contraband allegedly recovered from the Applicant falls within the “intermediate” quantity category, and therefore the statutory embargo under Section 37 of the NDPS Act does not apply.

3.2. No independent/public witnesses were present at the time of the alleged recovery, which casts serious doubts on the manner in which the recovery was effected.

3.3. No inventory, as contemplated under Section 52A of the NDPS Act, was prepared at the time of depositing the seized contraband in the *malkhana*.

3.4. The videography of the incident has been manipulated by the agency to falsely implicate the Petitioner.

3.5. The Applicant was arrested on 30th January, 2025 and has remained in custody since then. Since, the chargesheet has already been filed, custody of the Applicant is no longer required.

4. On the other hand, Mr. Ajay Vikram Singh, APP for the State, opposes the bail application and makes the following submissions:

4.1. There is sufficient material collected during investigation, including recovery of the contraband, to *prima facie* implicate the Applicant in the present offence.

4.2. The allegations pertain to a serious offence under the NDPS Act, which has grave social consequences and requires a stricter approach while



considering bail.

4.3. In the event of release on bail, there exists a strong likelihood of the Applicant absconding or attempting to tamper with the evidence and thereby compromising the fair conduct of the trial.

4.4. The period of custody undergone by the Applicant, as highlighted by the defence, is inconsequential in the context of the gravity of the offence.

4.5. The Applicant is already involved in another case under the NDPS Act, along with two additional criminal cases. This raises a strong apprehension that, if released on bail, he is likely to commit a similar offence or interfere with the investigation and the course of justice

5. The Court has considered the aforementioned contentions. While evaluating a bail application, the Court must consider several factors, including whether there is a *prima facie* case or reasonable grounds to believe the accused has committed the offence, the likelihood of the accused repeating the offence, the nature and seriousness of the accusation, the severity of the potential punishment upon conviction, the risk of the accused absconding or fleeing if granted bail and the reasonable apprehension of witnesses being intimidated by the accused.

6. In the instant case, the quantity of contraband alleged to have been recovered from the possession of the Applicant is only 16.57 grams, which is classified as “intermediate” as per the NDPS Act. In such circumstances, the statutory embargo under Section 37 of the NDPS Act, which applies only in cases involving commercial quantity, is not attracted.

7. It is noted that the Applicant has been in custody since 30th January 2025. The chargesheet was filed on 28th March 2025, and the investigation is stated to be complete. The Court is further apprised that the trial has not



yet commenced, as the FSL report of the seized samples is still awaited. In these circumstances, when no further custodial interrogation is required, the continued detention of the Applicant does not appear to be warranted at this stage.

8. As regards the Applicant's implication in other criminal cases, it is pertinent to note that the Supreme Court in *Prabhakar Tiwari v State of U.P.*,⁴ has held that the mere pendency of multiple criminal cases against an accused cannot, by itself, be a valid ground for denial of bail.

9. Further, it is well-established through numerous rulings by the Supreme Court that the purpose of bail is not punitive or preventative. The fundamental objective is to secure the presence of the accused at trial.⁵

10. In view of the above legal principles, and considering that only an intermediate quantity of contraband was recovered from the Applicant, that the investigation has been completed, and that the Applicant has been in custody since 30th January 2025, this Court finds that the Applicant is entitled to be released on bail, subject to appropriate conditions.

11. Accordingly, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;

⁴ (2020) 11 SCC 648

⁵ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



- 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 permission of the Trial Court;
 - d. The Applicant shall appear before the Trial Court as and when 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 PS on first Monday of every month;
12. 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.
13. 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 and also not be taken as an expression of opinion on the merits of the case.
14. The bail application is allowed in the afore-mentioned terms.
15. Pending application also stands disposed of.

SANJEEV NARULA, J

AUGUST 18, 2025

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