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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2516/2025 & CRL.M.A. 19692/2025

ARJUN YADAV

.....Applicant

Through: Mr. Jay Kishor Singh,
Adv. (through VC)
Mr. Mohit Raj and
Mr. Dharmendra Kumar,
Adv.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP
for the State with SI
Shubhendu Sharma, PS
Crime Branch, New Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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19.09.2025

1. The present application is filed seeking regular bail in FIR No. 44/2025 dated 20.02.2025, registered at Police Station Crime Branch for offences under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substance Act 1985.
2. Briefly stated, it is alleged that a secret information was received on the intervening night of 19.02.2025-20.02.2025 that a person being a resident of Bareilly and involved in drug trafficking, would come to Delhi to deliver contraband. It is alleged that pursuant to the same, a raiding team was constituted and three boys were apprehended from a taxi near Bus Stand C-1, Janakpuri, Delhi.
3. It is alleged that the three boys, namely, Bachoon Singh, Akib Ali and Mohd. Tahseen were found to be possessing a total of 328 grams of Heroin. It is alleged that during the course of the



interrogation, the accused persons disclosed that they had brought the contraband from Rajasthan on the instructions of the applicant and another accused person, namely, Ramkuwar Chaudhary.

4. During the course of the investigation, the call records of the applicant were obtained and it was found that the applicant was in touch with co-accused Bachoon Singh upto 10.02.2025. Further, during investigation, it was found that on 10.02.2025, the applicant had transferred a sum of ₹2,500/- from his bank account to that of the co-accused Ramkuwar Chaudhary for allegedly to be given to co-accused Bachoon Singh for the purpose of transportation of drugs.

5. The applicant was, thereafter, arrested on 24.02.2025 and is in custody since then.

6. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He submits that the only evidence against the applicant, at this stage, is the disclosure statement of the co-accused and that the said disclosure is not admissible in evidence in the absence of any recovery of contraband or other corroborative material. He submits that the applicant has already been enlarged on bail in the other cases registered against him in Haridwar and that in the said cases as well, no recovery was effected from the applicant.

7. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. She submits that the call records of the applicant indicate that the applicant was in touch with the other accused



persons prior to the incident. She submits that the applicant had also transferred a sum of ₹2,500/- to the account of the co-accused for the purpose of transportation of contraband. She submits that the applicant is also involved in four more cases registered in Haridwar and that the antecedents of the applicant do not entitle him to grant of any relief.

8. I have heard the counsel and perused the material on record.

9. It is relevant to note that while the veracity of the disclosure statement of the co-accused is to be tested at the time of the trial, this Court cannot lose sight of the decision of the Hon'ble Apex Court in ***Tofan Singh v. State of Tamil Nadu : (2021) 4 SCC 1***, wherein it was held that a disclosure statement made under Section 67 of the NDPS Act is impermissible as evidence without corroboration. The relevant paragraphs of the said judgment are set out below:

“155. Thus, to arrive at the conclusion that a confessional statement made before an officer designated under Section 42 or Section 53 can be the basis to convict a person under the NDPS Act, without any non obstante clause doing away with Section 25 of the Evidence Act, and without any safeguards, would be a direct infringement of the constitutional guarantees contained in Articles 14, 20(3) and 21 of the Constitution of India.

156. The judgment in Kanhaiyalal then goes on to follow Raj Kumar Karwal in paras 44 and 45. For the reasons stated by us hereinabove, both these judgments do not state the law correctly, and are thus overruled by us. Other judgments that expressly refer to and rely upon these judgments, or upon the principles laid down by these judgments, also stand overruled for the reasons given by us.

157. On the other hand, for the reasons given by us in this judgment, the judgments in Noor Aga and Nirmal Singh Pehlwan v. Inspector, Customs are correct in law.

158. We answer the reference by stating:

158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are “police officers” within the



meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

(emphasis supplied)

10. At this stage, apart from the disclosure statement of the accused persons who were apprehended with the contraband, the other material presented by the prosecution in support of their allegation against the applicant is that the applicant was found to be in contact with the co-accused Bachoon Singh up to 10.02.2025.

11. It is also the case of the prosecution that the applicant had transferred ₹2,500/- to Ramkuwar Choudhary on 10.02.2025, which was meant to be given to co-accused Bachoon Singh for the purpose of transportation of contraband.

12. Undisputedly, there is no call transcript in regard to the conversations between the applicant and the co-accused Bachoon Singh. Even as per the prosecution, the last call was made on 10.02.2025, which is much prior to the alleged date of recovery of contraband.

13. Even otherwise, merely because the applicant was allegedly in touch with the co-accused persons from whom the recovery was made does not suffice to attract the bar under Section 37 of the NDPS Act. This Court, in the case of ***Dalip Singh v. State (NCT of Delhi) : 2019 SCC OnLine Del 6494***, had observed as under:

“11. On perusal of the record, it is prima facie seen that there are two major missing links in the case of the



*prosecution. There is no link established by the prosecution between the petitioner with the alleged supplier Manoj. Further the entire case of the prosecution, in so far as petitioner is concerned is circumstantial i.e. based solely on disclosure statement of a co-accused which is per se not admissible without there being any corroboration. Prosecution has not been able to establish any connection between the subject offence and the bank accounts, where the petitioner is alleged to have been depositing money or with the holders of those accounts. **Merely because the petitioner has been having telephonic conversation with the co-accused, would not be sufficient to hold that petitioner is guilty of the subject offence. There is no recovery made from the petitioner.***

12. I am of the view that requirement of Section 37 of the NDPS Act are satisfied. In so far as the petitioner is concerned, there are reasonable grounds to believe that petitioner is not guilty of the said offence.”

(emphasis supplied)

14. Further, the allegation that the sum of ₹2,500/- was transferred to Ramkuwar Choudhary for the purpose that the same be given to co-accused Bachoon Singh for transporting the contraband is also not supported by any evidence presented at this stage.

15. It is pointed out that the applicant has also been involved in four more cases registered in Haridwar.

16. This Court has perused the orders passed by the Hon’ble High Court of Uttarakhand admitting the applicant on bail in the said cases. The Hon’ble High Court noted that there is no other evidence against the applicant except that he was named by the co-accused from whose possession the contraband was recovered.

17. In view of the above, without commenting further on the merits of the case, in the opinion of this Court, the applicant has made out a *prima facie* case for grant of bail.



18. In view of the above, the applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court/Duty MM/Link MM, on the following conditions:

- a. 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;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court on every date of hearing, unless his appearance is exempted;
- d. 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;
- e. 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.

13. 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.

14. 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.

15. The present bail application is allowed in the aforementioned terms. Pending application also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 19, 2025

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