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

+ **BAIL APPLN. 2563/2025**

GAURAV

.....Petitioner

Through: **Mr.Anuj Rajpal, Advocate**

versus

STATE (N.C.T. OF DELHI)

.....Respondent

Through: **Ms.Priyanaka Dalal, APP for the
State, alongwith SI Habib Khan, P.S.-
ER-I Crime Branch**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

29.08.2025

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1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No.121/2023 dated 24.05.2023 under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') and Section 78 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, 'JJ Act'), registered at Police Station Crime Branch, Delhi.

2. Per FIR, the prosecution's case reads as below:-

2.1 On 21.05.2023, upon receipt of secret information regarding one Reena W/o Pawan Raj indulging in drug peddling, a raiding team proceeded to the I-282, Maman Nagar, 1-Block, Jahangirpuri. Public witnesses were requested to join but refused. At about 11:25 AM, Reena was apprehended outside her house and was apprised of her rights under Sec. 50 NDPS Act,



which she declined, and her house was searched.

2.2 On search, a white plastic box containing three packets of heroin (200 gms marked 'A', 200 gms marked 'B', and 10 gms marked 'C', total 410 gms) was recovered. Samples of 2 gms each were taken, sealed, and marked 'A-1', 'B-1', and 'C-1'. The contraband was seized, a seizure memo was prepared, and a notice under Section 50 NDPS Act was served, but refused. The accused was arrested and informed of the grounds of arrest and the right to counsel. The recovered items were deposited in Malkhana.

2.3 Investigation ensued and on the basis of the disclosure statement of co-accused Reena, the applicant/Gaurav was arrested on 23.05.2023.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

3.1 Learned counsel for the applicant contends that the FIR is founded on a false and fabricated complaint, implicating the applicant despite his lack of involvement in the alleged offence. The Ld. Counsel for the Applicant would contend that the requirement of "reasonable grounds for believing that the accused is guilty" under Section 37 of the NDPS Act was overlooked by the Trial Court, amounting to an error of law.

3.2 The Court erred in ignoring that the investigation is complete and presents a fresh ground. Reference was made to a judgment rendered in ***Toofan Singh vs. State of Tamil Nadu 2020 SCC OnLine SC 882***. The Counsel would further submit that co-accused Tanveer @ Prince, similarly placed, was granted bail vide an order dated 04.09.2024 (Bail Appl. No. 1280/2024) by a coordinate bench of this Court.

3.3 The counsel would contend that prosecution's case is that the applicant was in regular touch with the co-accused and mere telephonic



contact or uncorroborated chats cannot establish guilt. Reliance is placed on ***Dalip Singh v. State, 2019 SCC OnLine Del 6494***, which held that disclosure statements without recovery are inadmissible. The Counsel would also refer to ***Vinay Dua v. State*** (Bail Appl. No. 900/2025) and ***Vinod Nagar v. NCB*** (Bail Appl. No. 3149/2022), where this Court held that WhatsApp chats, CDRs, and financial transactions without corroboration cannot prove contraband dealings.

3.4 The Ld. Counsel would state that the Applicant has been in custody since 23.05.2023 (over two years); continued detention violates Article 21 right to speedy trial. Moreover, he would contend that the investigation is complete and the chargesheet is filed.

3.5 Lastly, the Counsel would urge that allegations on Instagram chats and minor's statements which led to the arrest of the applicant require trial scrutiny. That applicant is a Delhi resident with clean antecedents and there is no risk of him absconding.

4. Opposing the bail plea, the learned APP for the State argues that the applicant is not entitled to bail, at this stage, and may indulge in repeat offence if he is released on bail.

4.1 Moreover, she would argue that Reena (co-accused nabbed with the contraband) has disclosed that she used to procure heroin from the applicant. The learned APP would submit that the applicant has prior criminal antecedents under the NDPS Act.

4.2 She would contend that the applicant has not cooperated with the investigating agency and has hidden the facts to save his skin.

5. Having heard and perused the case file, it seems to be case for bail. Let us see how.



6. It transpires that co-accused namely Tanveer alias Prince who has also been attributed the similar role as that to the applicant herein i.e. being the supplier of the contraband in question has been granted bail by a Coordinate Bench of this Court vide an order dated 04.09.2024 (Bail Appl. No. 1280/2024).

7. Bail supra was granted to the said co-accused only after having undergone a year of custody, whereas, the applicant who stands on parity, but yet is languishing in jail for the past 2 years and 4 months.

8. The chargesheet has been filed and trial has commenced. The trial is likely to take long time as it is proceeding at a snail's pace.

9. Applicant is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

10. In totality of the circumstances, I am of the view that at this stage, the applicant is entitled to bail during the pendency of the trial.

11. The applicant is stated to be the sole breadwinner of his family and he is responsible to tend to them who is solely dependent on him for survival. In his absence, the family is moving towards literal starvation and penury.

12. Taking wholesome view of the matter, the application is allowed. The applicant is thereby directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual



conditions to be imposed by the learned Trial Court.

13. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same. In case the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case *vide* instant order.

14. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 29, 2025
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