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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2650/2025**
MOHAN GUPTAPetitioner

Through: Mr. Aditya Aggarwal and Ms.
Shivani Sharma, Advocates.

versus

STATE GOVT. OF NCT OF DELHIRespondent
Through: Mr. Mukesh Kumar, APP with Mr.
Vineet Awana, Advocates.
SI Vikas Deep, ANTF/Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **25.08.2025**

1. This is the second bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) read with Section 36A(3) of the Narcotic Drugs and Psychotropic Substances Act, 1985³, seeking regular bail in connection with FIR No. 54/2023 dated 2nd March, 2023, registered under Section 21 of NDPS Act at P.S. Crime Branch, Delhi. Subsequently, a chargesheet was filed *qua* the Applicant under Sections 21(c) and 29 of the NDPS Act.

2. The Applicant's first bail application [BAIL APPLN. 2954/2024] was dismissed by this Court on 4th April, 2025, upon a detailed consideration of

¹ "BNSS"

² "CrPC"

³ "NDPS Act"



the facts and submissions then urged, with the finding that the statutory conditions for grant of bail under the NDPS Act were not satisfied.

3. Thereafter, the Applicant preferred a petition under Section 482 of CrPC [CRL.M.C. 2601/2025] seeking directions for expeditious recording of testimonies of the raiding team. Taking note of the fact that charges had not been framed for nearly two years, this Court, *vide* order dated 21st April, 2025, directed the Trial Court to proceed in a time-bound manner. In the meantime, the prosecution was directed to expedite the FSL report.

4. Thereafter, the Applicant moved a second bail application before the Trial Court, which was heard and decided on 16th July, 2025, with the following observations:

*“Submissions considered and bail order dated 07.08. 2024 passed by Ld. Predecessor of this Court of applicant/ accused annexed with the present application are perused. After going through the same, it is observed that except the number of days of judicial custody of accused / applicant, there is not any change in the facts and circumstances of the case. Further, applicant/ accused is involved in several cases and a habitual offender as observed by the Hon’ble High Court of Delhi and further considering the fact that the commercial quantity of contraband i.e. 410 gram Heroin was recovered from the possession of the applicant/ accused. The allegations involved in the present case are serious in nature. It is well settled that the nature and gravity of accusation , severity of the punishment, danger of the accused absconding, reasonable apprehension of the witnesses being influenced, prime facie case against the accused, danger to the society etc. are factors which have to be kept in mind while exercising powers for grant of bail. In my considered opinion and owing to the given facts and circumstances of the case, I am not inclined to grant bail to the applicant/ accused at this stage. Accordingly, bail application of the applicant/ accused **Mohan Gupta** stands **dismissed**.*

The observations made on the merits of the case are purely for the purposes of deciding the present bail application and shall not be construed as expression upon the merits of the case.

Copy of the order be given dasti to the IO, Ld. Counsel for applicant/accused and be communicated to the applicant/accused in Jail through Jail Superintendent concerned.”



5. Against the above background, the Applicant has now filed the instant bail application.

6. On a pointed query of this Court, counsel for the Applicant concedes that the only change in circumstance, since dismissal of the earlier bail application, is the extension of the Applicant's period of custody.

7. It is well settled that mere extension of custody, without any material change in circumstances, cannot by itself constitute a ground for grant of bail in offences involving recovery of commercial quantity of a narcotic substance. The rigour of Section 37 of the NDPS Act is stringent, and unless the twin conditions contained therein are satisfied, prolonged incarceration, alone does not entitle an accused to release on bail.

8. The recovery effected from the Applicant is of commercial quantity, and the record also discloses that he does not have clean antecedents. While prolonged custody may, in some cases, invite scrutiny under Article 21 of the Constitution of India, that safeguard is attracted only where it is shown that the delay in trial is attributable to the prosecution, or that there is no realistic prospect of its conclusion within a reasonable time. No such material has been placed before this Court in the present matter. Pertinently, the prosecution has already placed on record the FSL report along with a supplementary chargesheet. In these circumstances, the mere fact of extended custody, in the absence of any exceptional circumstance, cannot be treated as a change sufficient to warrant reconsideration of bail.

9. The Applicant has been repeatedly approaching both the Sessions Court and this Court with successive bail applications at intervals of merely two to three months. Such a practice, in the opinion of this Court, is wholly impermissible and cannot be countenanced. The law on successive bail



applications is settled: unless there is a material change in circumstances, a second or third application cannot be treated as a means to re-argue what has already been adjudicated. If the Applicant is dissatisfied with the order of this Court, the proper course is to seek redress before a higher court, rather than to file successive applications on the same grounds.

10. In light of the foregoing, and having regard to the fact that all grounds presently urged have already been considered and rejected by this Court in its earlier order dated 4th April, 2025, no case for grant of bail is made out.

11. Accordingly, the present bail application is dismissed.

SANJEEV NARULA, J

AUGUST 25, 2025

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