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

+ **BAIL APPLN. 2699/2025**

ANKIT @ BUDDHA

.....Petitioner

Through: Mr. Anant Malik, Ms. Nikita
Bharadwaj, Ms. Isha Tripathi,
Ms. Pooja Bisht and Ms. Tanya
Sharma, Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

19.09.2025

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1. The applicant herein seeks indulgence of this Court for grant of regular bail during pendency of the trial in the criminal proceedings arising out of FIR No. 232/2024 dated 21.11.2024 for the offences punishable under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), registered at Police Station Crime Branch, Delhi and chargesheet filed under Sections 20/25/29 NDPS Act.

2. Applicant is under incarceration since 27.11.2024 (more than 9 months). His first bail application was dismissed as withdrawn by the learned Special Judge (NDPS) vide order dated 15.05.2025 and his second bail application was dismissed by the learned Special Judge (NDPS) vide order dated 09.07.2025.



3. Briefly speaking, per FIR, on 20.11.2024, SI Amrender along with his team from ANTF Crime Branch received a secret information from an informer that one Jameel, resident of Nihal Vihar, would arrive at Majnu Ka Tila with a large quantity of hashish.

3.1 After informing Inspector Jasbir Singh and on orders of ACP Raj Kumar, a raid was conducted at Hotel Jamyang, Majnu Ka Tila. Despite attempts, no public witnesses joined. Thereafter accused Mohd. Jameel was apprehended with a black polythene bag containing five ziplock pouches of suspected hashish, which upon field testing and FSL examination was found to be hashish weighing net 1192 gms.

3.2 Jameel disclosed that he had procured the contraband from Prem Thapa, who was arrested from room no. 13 of the hotel, though no recovery was made from him.

3.3 Legal formalities under Sections 42 and 50 NDPS Act were complied with, notices were served, and the contraband was sealed, marked, and deposited as per procedure.

3.4 Videography and photography of proceedings were conducted. Both accused were booked under Sections 20/29 NDPS Act and the case was registered at Crime Branch. Consequently, FIR was registered and during investigation, the applicant was apprehended on the basis of the statement of accused/ Prem Thapa.

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

5. Learned counsel for the applicant would argue inter alia on the lines of grounds as pleaded in the petition as below:-

5.1 He would submit that the investigation qua the present applicant has



already been concluded and the charge-sheet has been duly filed before the learned Trial Court. Hence, no further custodial interrogation of the applicant is required, and continued detention would serve no fruitful purpose.

5.2 That the applicant has been implicated solely based on disclosure statements of co-accused, with no contraband recovered from him or at his instance. Section 37 of the NDPS Act is not attracted, as the alleged recovery is not from the applicant's possession, and mere disclosure statements cannot form the sole basis for continued incarceration.

5.3 That the co-accused Prem Thapa and Pradeep Kumar have already been granted regular bail by the learned Trial Court *vide* order dated 07.07.2025 and 09.07.2025 respectively. On the principle of parity, the applicant deserves the same relief as his role, at best, is on a similar footing with the said co-accused.

5.4 That the only alleged link against the applicant is certain WhatsApp calls/chats with co-accused persons. Mere telephonic or digital communication, without any corroborative evidence of actual involvement in the transaction of narcotics, is not sufficient to establish guilt under the NDPS Act.

5.5 He would contend that the applicant has been in judicial custody since the date of his arrest i.e. 27.11.2024 and has already undergone considerable incarceration. Prolonged pre-trial detention amounts to punishment without trial, which militates against the fundamental rights enshrined under Article 21 of the Constitution of India.

5.6 That the applicant undertakes to regularly appear before the learned Trial Court as and when directed and to cooperate with any further



investigation, if required. There is no apprehension that the applicant will abscond or tamper with the evidence.

5.7 He would further argue that it is a well-settled proposition of law that bail is the rule and jail is the exception. The paramount consideration while deciding bail is the availability of the accused to face trial, which the applicant unequivocally assures.

6. Learned APP for the State would oppose the bail plea arguing that the accused Ankit @ Buddha is involved in the supply of a significant quantity of charas and has direct connectivity with co-accused Prem Thapa. Mobile evidence, including photographs and videos of contraband, corroborates his active role. The offence is serious, commercial in nature, and affects public interest by targeting youth and generating illicit funds, attracting the rigours of Section 37 NDPS Act. The accused does not have permanent residence in India and may abscond or repeat similar offences if released. In view of these factors, there are no grounds for bail, and the application may be dismissed.

7. Having heard, I am of the view that there may be some substance in certain arguments on merits addressed by the learned counsel for the applicant, but the same is matter of trial. However, I am of the view that at this stage, in light thereof, it is a case for bail. Let us see how.

8. The applicant has been implicated only on the basis of co-accused disclosure statements, with no contraband recovery from him or at his instance, making applicability of Section 37 NDPS arguable. The only alleged link of applicant with co-accused is limited to WhatsApp calls/chats, which, without corroboration, cannot establish involvement in narcotics transactions.



9. Co-accused Prem Thapa and Pradeep Kumar have already been granted bail, and on parity the applicant deserves the same relief, whereas, the applicant has already remained in custody for more than 9 months.

10. Apart from the reasons already discussed, what raises doubt is the inconsistent approach of the prosecution. On one hand, Pradeep Kumar, who is alleged to be equally involved, with the applicant Ankit @ Buddha as the supplier and Pradeep Kumar as the receiver of the contraband, has already been granted bail by the Sessions Court, and no challenge has been made against that order. On the other hand, the applicant's bail is being opposed on the ground that, as the supplier, his role is more serious.

11. I find this reasoning unconvincing, as the supplier and receiver are counterparts in the same transaction, and to suggest that the receiver is less culpable than the supplier is inherently contradictory. Therefore, on the principle of parity, in addition to other grounds, the applicant is thus also entitled to similar concession.

12. Furthermore, it is also not disputed that both the applicant herein as well as Pradeep Kumar have been implicated in the FIR in question on the basis of custodial statement of the co-accused which, *per se*, cannot be the proof of culpability and unless there is cogent material otherwise discovered in course of the investigation.

13. 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.



14. One of the primary objects of bail is merely to secure the presence of the accused during trial. The applicant has no criminal antecedents, deep roots in the society and poses no flight risk and thus deserves concession of bail.

15. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on her 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/Duty Court.

16. 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.

17. Accordingly, the bail application alongwith pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 19, 2025

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