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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 2725/2025 and CRL.M.A. 21298/2025, CRL.M.A.
23476/2025 & CRL.M.A. 23477/2025

SONU

.....Petitioner

Through: Mr. Akshay Bhandari, Ms. Megha
Sarea, Mr. Anmol Sachdeva,
Mr. Kushal Kumar and Mr. Janak Raj,
Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the
State.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER
28.08.2025

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1. The applicant is before this Court having remained under incarceration since 23.06.2024, for a period of 1 year 2 months, seeking indulgence of this Court for grant of bail during pendency of the trial in criminal proceedings arising out of FIR No. 120/2024 dated 14.06.2024 for alleged offences under Sections 21/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Crime Branch, Delhi.
2. Prosecution case is that, acting on secret information, raiding party was constituted and accused Saurabh @ Gaurav was apprehended. He was informed of his legal right under Section 50



NDPS Act to be searched in the presence of a gazetted officer or Magistrate, and to search the police party before his own search. Notices under Section 50 NDPS Act were prepared and served upon him, but he refused both options and recorded his refusal with his signature.

2.1 Upon search, a black polythene bag was recovered from his right hand. On checking, reddish powder was found inside, which on testing with a field kit was confirmed to be smack. The contraband weighed 160 grams along with the polythene bag. FIR No. 120/2024 was lodged on 14.06.2024 under Sections 21/61/85 of the NDPS.

2.2 Charge-sheet against Saurabh and the applicant was filed on 09.08.2024 and Section 29 of the NDPS Act has been added. Per chargesheet and supplementary chargesheet, during the course of investigation, accused Gaurav disclosed that he is a drug peddler and is working for the applicant and one Shanti. On 23.06.2024, it came to notice of the investigating officer that the mobile number 7303382298 was being used by the applicant. The same number was put on technical surveillance which indicated the location of the applicant to be in Haridwar.

2.3 On the basis of this information, the investigating officer with his staff departed to Haridwar, apprehended the applicant and brought him to Delhi on 23.06.2024. On 24.06.2024, 150 grams of Heroin was recovered from his residence in Delhi.

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



4. The learned counsel for applicant would submit that he has been falsely implicated and is innocent. He would further submit that the alleged contraband recovered from him is of intermediate quantity (only 150 grams). Moreover, his liability for commercial quantity is sought to be fastened solely on inadmissible disclosure statements and CDRs, though the law is settled that mere CDRs cannot establish conspiracy.

4.1 Learned counsel would further submit that the mobile number relied upon by the prosecution is not registered in his name, no phone was recovered from him, and even disclosure statements do not mention such a number. He would further submit that the recovery was not witnessed by any independent public person, nor videographed/ photographed.

4.2 Moreover, counsel would submit that his alleged location was traced to Uttarakhand, yet he was arrested from the Crime Branch, Delhi, without being produced before the local court there, which renders his arrest improper. He would also submit that the applicant was also not informed of the grounds of arrest, which is a violation of Article 22(1). Reliance has been placed on ***Gagan v. State (NCT of Delhi)***¹.

4.3 Counsel for applicant would also submit that prolonged custody, delay in trial, and non-communication of grounds of arrest justify grant of bail despite allegations under Section 37 of the NDPS Act. Reliance has been placed on ***Rabi Prakash v. State of Odisha***².

¹ BAIL APPLN. 73/2025

² 2023 SCC Online SC 1109



He would further submit that the applicant has already spent more than 13 months in custody, charges are only framed, trial is unlikely to conclude soon. He also would submit that the applicant has clean antecedents and has previously been granted interim bail for 7 days.

5. Learned APP for the State, at the very outset, opposes the bail plea, *inter alia*, on the grounds that total of 585 grams of Heroin has been recovered in the present case. Hence, rigors of Section 37 of NDPS Act are applicable. Moreover, the twin conditions are not satisfied in this case.

5.1. Moreover, learned APP opposes the bail plea on the grounds that applicant's previous bail application has been dismissed by the learned ASJ (NDPS), Rohini District Courts vide order dated 04.09.2024. She further opposes the application on the grounds of severity of the offence, its societal impact and seriousness of the allegations.

6. Having heard, the application deserves to be allowed for the reasons stated here in after.

7. In fact, the matter was earlier heard on 11.08.2025 when the following order was passed:

"1. Status report in terms of order dated 24.07.2025 is stated to have been received by the learned APP for State. She seeks a short accommodation to place the same on record.

2. At her request, list on 28.08.2025.

3. Meanwhile, learned APP for State to seek instructions, if either any cell phone or the sim card has been recovered from the applicant which is stated to have been used by him as part of hatching a conspiracy with the co-accused attracting the rigors of Section 29 of the NDPS."



8. Apropos resumed hearing today, a hard copy of the report has been tendered in course of hearing which has been seen and returned to be digitalized and placed on record. Paragraph 13 thereof reads as under:-

“13. Upon analysis of the Call Detail Records (CDRs), the following connectivity has been established among the accused persons from 01/04/2024 to 14/06/2024.

- (i) Accused Saurab @ Gaurav and co-accused/petitioner Sonu have been found to have communicated via 157 calls direct calls.*
- (ii) Accused Saurab @ Gaurav and co-accused Shanti have been found to have communicated via 87 calls within a period of three months.*
It is further noted that accused Sonu and co-accused Shanti are relatives, sharing a dewar-Bhabhi (brother-in-law and sister-in-law) relationship.
Further mobile phone bearing no. 7303382298 (which was used by the petitioner) was not recovered from his possession.”

9. In view of the aforesaid, it transpires that the suspicion and/ or the allegation that he was involved in hatching a conspiracy at this time seems to be a suspicion and mobile phone was not recovered from applicant herein. Be that as it may, it is a matter of trial, subject to the appreciation of evidence which is placed on record of the Court.

10. It transpires that the applicant was arrested on 23.06.2024. He has no criminal antecedents of any kind. Moreover, he was previously granted an interim bail for a period of 7 days (28.04.2025 to 05.05.2025) where no misconduct was reported. Hence, the suspicion of the applicant absconding or being a flight risk seems to be unfounded.

11. The applicant has already undergone almost 1 year 2 months of



incarceration during pendency of the trial, wherein chargesheet already stands filed and investigation is complete. The testimony of prosecution witnesses is being recorded. As far as tampering of the evidence is concerned, the same seems to be an unfounded suspicion since most of the evidence is documentary in nature, which has already been seized by the prosecution and is beyond the reach of the applicant.

12. As regards influencing the witnesses, they are all officials of the prosecution and thus, it is an unfounded suspicion that he may try to reach out.

13. The applicant is a 33-year-old man who is at the crucial years of his career and continued preventive detention would jeopardize his career prospects for rest of the life.

14. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail's pace.

15. Taking wholesome view of the matter and given the duration of the incarceration already undergone, I am of the view that at this stage it is a fit case of bail. 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.

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.

17. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 28, 2025

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