



2025:DHC:5341



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

**Date of Decision: 07.07.2025**

+ BAIL APPLN. 3506/2024

AJIT JAISWAL

.....Petitioner

Through: Mr. Rahul Gupta, Ms. Yati  
Ranjan and Ms. Anuja Sihna,  
Advs.

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Mr. Arun Khatri, SC with Ms.  
Shelly Dixit and Ms. Tracy  
Sebastin, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**SHALINDER KAUR, J (ORAL)**

1. The present application has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 wherein the petitioner seeks regular bail in case No. VIII/37/DZU/2023 dated 14.03.2024 for offence under Section 8(c)/22(c)/23(c) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS).

2. The brief facts of the case are that, on 01.08.2023 at around 1400 hours, Shri Manoj Kumar Yadav, JIO, received secret information that a parcel consignment bearing Airway Bill No. 781638052022 was lying at Skart Global Express Private Ltd, IGI Airport, New Delhi, and was suspected to contain a large quantity of narcotic/psychotropic substances. Acting on the said tip, Shri Sandeep Kumar, JIO, constituted a raiding team and proceeded to the spot.

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Upon reaching the location, he met Shri K.K. Yadav, Security Officer, Skart Global Express Private Ltd, and shared the information with him. Thereafter, Shri K.K. Yadav produced the suspected parcel bearing Airway Bill No. 781638052022 before the NCB officials.

3. After procedural compliances, the raiding team examined the intercepted parcel, which was a white coloured carton box wrapped with transparent tape. On one side of the parcel, certain documents were affixed, which were duly separated from the box. The invoice and a white paper pasted on the box reflected the sender's address as "*Vijay Mishra S/o Surendra Mishra, 19/232-l OL, Malti Nagar, Indrapur-Shivpur Link Road, Varanasi, Uttar Pardesh 221003, India Phone-7518425388, [email-vijay@gmail.com](mailto:email-vijay@gmail.com)*" and the address of the receiver was mentioned as "*Justin Nagy 4308 N, Peachtree RD, Chamblee GA 30341 USA Phone + 16190925565*".

4. Upon opening the carton box, it was found to contain 10 golden-coloured ribbon rolls. The rolls contained a total of 4,990 tablets, weighing 1.706 kg of Tramadol Hydrochloride Tablets 100 mg bearing Batch No. 964-20, manufactured by HAB Pharmaceuticals and Research Limited, Pharmacity SIDCUL, Selaqui, Dehradun.

5. Upon investigation, it was revealed that the said parcel had been booked by a wholesaler named Om Enterprises, located at C7-22, T Senpura Halka, Thana Chethanj, Varanasi, Uttar Pradesh. During the course of inquiry, the booking agent, Rakesh Dubey, identified the petitioner from CCTV footage dated 25.07.2023, as the individual who had booked the aforesaid parcel, which had been booked in the



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name of one Vijay Mishra. The petitioner was subsequently interrogated after service of notice under Section 67 of the NDPS Act, and was arrested on 20.09.2023.

6. While seeking bail for the petitioner, the learned counsel, Mr. Rahul Gupta, impressed upon that there has been non-compliance with the provisions of Section 52A of the NDPS Act. He contends that the mandatory procedure under the said Section, pertaining to the preparation of an inventory of the narcotic drugs, including their quality, quantity, mode of packing, marks, and numbers, was not duly followed. He submits that the weight of the allegedly recovered contraband is not mentioned in the report filed by the Investigating Officer (IO), and that there was an unexplained delay of 22 days in conducting the proceedings under Section 52A.

7. He submits that there is no evidence on record to establish that the petitioner was in conscious possession of the contraband, as he had merely collected and delivered the package to the courier office in Varanasi at the behest of his cousin, Yash Gupta.

8. It is further submitted that the petitioner had no knowledge of the contents of the said parcel. The learned counsel also submits that Shri Rakesh Dubey, the booking agent, failed to identify the petitioner during the Test Identification Parade (TIP), and therefore, the prosecution has not been able to establish the identity of the petitioner.

9. The learned counsel vehemently submits that, apart from the identity of the petitioner, even the identity of the parcel itself is in dispute, as the invoice pasted on the recovered box does not match the copies of the invoice recovered from the petitioner's mobile phone.



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He submits that, despite making every possible effort, the prosecution has failed to establish any nexus between the petitioner and the recovered parcel through the documents allegedly retrieved from his mobile device, which do not correspond with those affixed to the seized package.

10. It is further submitted that not only do the invoices not match, but even the slip containing the name and particulars of the consignee is different. While the details recovered from the petitioner's mobile phone were handwritten, the address affixed on the recovered parcel was typed. The learned counsel submits that this discrepancy is sufficient to demonstrate that the parcel allegedly booked by the petitioner was not the same as the one recovered by the raiding team from Skart Global Express Private Limited, IGI Airport, New Delhi.

11. The learned counsel submits that, admittedly, the names of the accused persons were not known to the investigating agency on 01.08.2023. However, their names have been mentioned in the *Malkhana* register.

12. The learned counsel further submits that the recovery was made on 01.08.2023, whereas the sampling was conducted only on 22.08.2023, i.e., after a delay of 22 days and the FSL report was furnished on 13.10.2023. He submits that the prosecution has, thus, failed to ensure expeditious testing of the samples casts a serious doubt on the integrity of the recovery of the alleged contraband.

13. The learned counsel also submits that the Investigating Agency failed to comply with Rule 3 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) (Seizure, Storage, Sampling and



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Disposal) Rules, 2022 as well as the mandatory provisions of Standing Order No. 1/88 and Section 2.1 of Standing Order No. 1/89. He submits that the sampling procedure adopted was flawed, as samples were not drawn from each of the 10 rolls allegedly recovered. Instead, only 10 tablets were taken from a single roll and weighed. Based on the weight of those tablets, the total weight of the remaining strips was presumed and calculated to be 1.706 kg.

14. To conclude, the learned counsel submits that the prosecution has to examine 22 witnesses. He further submits that the petitioner has clean antecedents and is not involved in any other criminal case. It was argued that no purpose would be served by keeping the petitioner in custody, when there is no likelihood of the trial concluding in the near future.

15. The learned Standing Counsel on behalf of the respondent, while opposing the bail application, submits that the officials of the NCB had seized a commercial quantity of contraband, and the evidence collected during the investigation clearly reveals the involvement of the petitioner in the illicit trafficking of narcotic substances.

16. He submits that the investigation led to the recovery of digital evidence, including WhatsApp chats between the petitioner and co-accused Yash Gupta, pertaining to the booking of the parcel and related instructions. Further, parcel receipts and identification documents namely, Aadhaar Card and PAN Card in the name of Vijay Mishra were recovered from the mobile phones of both the petitioner and co-accused Yash Gupta. These documents were allegedly used for



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booking the parcel bearing Airway Bill No. 781638052022. Additional WhatsApp communications between the two co-accused also contained discussions regarding parcel booking, tracking, and other relevant instructions.

17. Furthermore, from the mobile phone of the petitioner parcel booking receipts and parcel invoice of Airway Bill No. 781638052022 was recovered.

18. The learned Standing Counsel further submits that the identity of the petitioner has been clearly established through CCTV footage, wherein he can be seen with the parcel with the booking clerk, which is sufficient evidence against the petitioner, even though the booking clerk, Rakesh Dubey, failed to identify him during the TIP.

19. He submits that, in view of the recovery of a commercial quantity of contraband, the bar under Section 37 of the NDPS Act is attracted in the present case, and therefore, the petitioner is not entitled to the grant of bail.

20. Heard learned counsel for the petitioner as well as the learned Standing Counsel for the respondent. There is no dispute to the fact that the petitioner had sent the parcel in question. The primary contention raised on behalf of the petitioner, however, is that the parcel allegedly recovered by the NCB's raiding team is not the same as the one booked by the petitioner. In support of this submission, learned counsel for the petitioner has drawn attention to certain discrepancies in the documents. It was further submitted that the prosecution is placing reliance merely on documents allegedly recovered from the petitioner's mobile phone. It is pointed out that,



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according to the petitioner's chats, the parcel sent by him had a handwritten address affixed to the side of the box, whereas the parcel recovered during the raid had a typed address.

21. Furthermore, it was argued that the invoice recovered from the seized parcel is different from the invoice retrieved from the petitioner's mobile phone.

22. Another contention raised on behalf of the petitioner is that he had no knowledge of the contents of the parcel and had merely sent the same. Thus, it is submitted that he was not in conscious possession of the substances recovered therefrom.

23. As far as this argument is concerned, it is a matter to be proved during trial as to whether the petitioner was in conscious possession of the substance, for which the prosecution has relied on WhatsApp chats between the petitioner and the co-accused and the same is yet to be proved. It is also pertinent to note that the petitioner has been in custody since 20.09.2023. He has clean antecedents, and his overall jail conduct is stated to be 'Satisfactory'.

24. In view of the conspectus of facts and circumstances, the petitioner is admitted to Regular Bail in the present case, on his furnishing a personal bond in the sum of ₹ 30,000/- with two sureties in the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:-

- i. The Petitioner shall not leave the NCT of Delhi without prior permission of the learned Trial Court.
- ii. The Petitioner shall report at local area Police Station, once



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a week i.e., every Saturday at 4:00 P.M for marking his presence.

- iii. The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- vi. The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.

25. It is made clear that no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of present Bail Application alone.

26. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

27. Accordingly, the present Bail Application stands disposed of.

**SHALINDER KAUR, J**

**JULY 07, 2025/SU/SK**

*Click here to check corrigendum, if any*

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