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

+ **BAIL APPLN. 3439/2025**

USMAN

.....Petitioner

Through: Ms. Kirti Chouhan, Mr. Deepanshu
Goswami and Mr. Rohit Sahrawat,
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP.
ASI Sanjeev Kumar, ARSC/ Crime.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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15.10.2025

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (erstwhile Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 261/2023 registered under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985³ at P.S. Crime Branch. Subsequently, a chargesheet has also been filed against the Applicant under Section 29 of the NDPS Act.

2. Briefly stated, the case of the prosecution is as follows:

2.1. On 29th October, 2023, acting upon specific secret information, a raiding team was constituted to apprehend one Parvez @ Bhoora, who was

¹ "BNSS"

² "Cr.P.C."



alleged to be transporting *ganja* from Vijayawada, Andhra Pradesh to Delhi via train parcels, with the intent to supply it in Delhi and the NCR region. Upon his arrival at New Delhi Railway Station, he was apprehended, and 108 kilograms of *ganja* was recovered from his possession.

2.2. On interrogation, Parvez disclosed the involvement of other individuals, including the Applicant, alleging that the Applicant used to receive the contraband in Delhi and used to further distribute it locally with the Delhi NCR region.

2.3. During investigation, the Applicant was found to be previously arrested in FIR No. 141/2023, registered under Section 8/20 NDPS Act at PS Ratanpuri, Muzaffarnagar (U.P.), and was already in judicial custody. He was formally arrested in the present case on 6th November, 2023 with prior permission from the Court.

2.4. The prosecution alleges that all the accused persons, including the Applicant, are part of an organized drug syndicate with predefined roles. CDRs, mobile phone data and bank records allegedly establish financial and telephonic links between the Applicant and other co-accused. A chargesheet was filed wherein the Applicant has been charge-sheeted under Section 29 of NDPS Act.

3. Counsel for the Applicant submits that he has been falsely implicated and has no connection with the alleged recovery. The prosecution has not produced any material to demonstrate his involvement beyond the disclosure statement of the co-accused, which is inadmissible in law. The investigation in the matter is complete, and the charge sheet stands filed. The Applicant has been in custody since 6th November, 2023, and his continued

³ “NDPS Act”



incarceration would serve no useful purpose. Counsel also relies on the principle of parity, submitting that co-accused Parvez @ Bhoora, from whom the alleged recovery was effected, has already been granted bail by this Court in *BAIL APPLN. 3921/2024*. The Applicant stands on an equal, if not better, footing as no recovery has been attributed to him, and therefore, there was no justification for the Trial Court to have denied him similar relief.

4. Conversely, Mr. Amit Ahlawat, APP for the State, opposes the bail application. He submits that 108 kilograms of *ganja*, a commercial quantity, has been recovered in the present case and, therefore, the rigours of Section 37 of NDPS Act squarely apply. Accordingly, the Applicant must satisfy the twin conditions under the said provision before any relief can be granted. There exist clear financial transactions and CDR linkages between the Applicant and co-accused persons, including Parvez @ Bhoora, demonstrating his active role in the drug trafficking network. The Applicant has criminal antecedents, having been previously involved in FIR No. 141/2023 which indicates a propensity to re-offend. It is thus submitted that if released on bail, there is a strong likelihood that the Applicant may abscond, influence witnesses, or otherwise interfere with the investigation and trial.

5. The Court has considered the aforementioned facts and rival submissions. It is noted that this Court had earlier rejected the Petitioner's bail application *vide* order dated 22nd April, 2025. Thereafter, upon co-accused Parvez @ Bhoora being granted bail, the Petitioner approached the Trial Court afresh on the ground of change in circumstances. However, by order dated 4th September, 2025, the Trial Court declined the application primarily on the



premise that this Court had already rejected bail on 22nd April, 2025.

6. In the opinion of this Court, the grant of bail to the co-accused from whom the recovery was effected constitutes a material change in circumstances warranting reconsideration. The Applicant has been arraigned under Section 29 of the NDPS Act, however, no contraband has been recovered from his possession. The prosecution rests its case on the disclosure statement of the co-accused, supplemented by CDR analysis and alleged financial transactions. The evidentiary value of such material is a matter for trial. At this stage, in the absence of any direct recovery from the Applicant, and the case against him being primarily disclosure-based, this Court is persuaded to extend the benefit of parity, especially when bail has already been granted to Parvez @ Bhoora, wherein the following observations were made:

“4. As reflected from previous record, in the course of arguments on earlier dates, contention of the prosecution was that the accused/applicant had booked the contraband parcels from Vijayawada and was in the process of getting the same released from Railways. Besides that, the contention of the prosecution was that the accused/applicant was in constant touch with the co-accused Usman and Subhash Bhati through telephone connectivity and money transfer. But despite repeated adjournments, no documentary evidence as regards the alleged booking of the contraband parcels or telephonic connectivity or money transactions between the accused persons has been produced.

5. Today, learned APP on instructions of the IO submits that the accused/applicant had handed over the contraband parcels in Vijayawada to one Syed Sajid, who formally booked the parcels at the Vijayawada Railway Station booking counter and his statement has been recorded under Section 161 CrPC. In response, learned counsel for accused/applicant contends that it is Syed Sajid, who is the actual culprit, but let off by the IO illegally. That being so, I called upon the IO to show the statement of Syed Sajid and the corresponding Case Diary. To say the least, the Case Diary corresponding the statement of Syed Sajid does not inspire confidence because of the manner in which a long narration of the investigation process was printed on the papers, even covering the header and footer margins to somehow fit in the matter; prima facie, it appears that the efforts



were done to somehow squeeze in the material between two successive Case Diaries. It conveys prima facie impression that this Case Diary qua statement of Syed Sajid has been subsequently inserted. Be that as it may, the IO is also unable to explain as to why no statement of the window clerk of the parcel section at Vijayawada Railway Station was recorded to find out as to who had delivered the parcels there.

6. *In other words, the evidence collected by the investigator neither shows that the accused/applicant personally got the parcels booked and handed over the same at Vijayawada Railway Station nor shows that the accused/applicant personally got the parcels released from New Delhi Railway Station. Even as regards Syed Sajid, there is no material collected by the IO to show that the parcels were handed over by the accused/applicant to Syed Sajid.*

7. *At this stage, I must add a cautious rider that the entire above discussion has been done only keeping in mind the stringent conditions laid down in Section 37 NDPS Act in order to satisfy myself as to whether there is some evidence to connect the accused/applicant with the alleged offence so as to attract the rigours of Section 37 NDPS Act. The learned trial court shall take independent view after conclusion of trial on these aspects."*

7. As regards the apprehensions expressed by the State regarding the possibility of the Applicant absconding or interfering with ongoing proceedings, the same can be adequately addressed by imposing suitable and stringent conditions at the time of granting bail.

8. Accordingly, the present bail application is allowed and the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;



- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- g. The Applicant shall report to the concerned PS on first Friday of every month;
- 9. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
- 10. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
- 11. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

OCTOBER 15, 2025

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