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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3865/2025**
MOHIT JAISWALPetitioner

Through: Mr. Aditya Aggarwal, Mr. Naveen
Panwar and Mohd. Yasir, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent
Through: Mr. Ripu Daman Bhardwaj, SPP with
Mr. Kushagra Kumar, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
01.12.2025

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1. The Applicant seeks bail in RC2202023E0017 registered under Sections 22/23/29/8 of the Narcotic Drugs and Psychotropic Substances Act, 1985,¹ at P.S. CBI, EO-II.

2. The case of the prosecution, in brief, is as follows:

2.1. On 04th July, 2023, the NCB received an Interpol reference alerting Indian authorities about three Belgium-origin parcels suspected to contain MDMA, two of which were already detained by Customs. These two parcels were seized by the CBI from the Foreign Post Office, Kotla Road, New Delhi, and were found to contain a total of over 3.6 kg of MDMA, far exceeding commercial quantity. Controlled delivery was thereafter planned, and dummy parcels were dispatched to the addresses written on the shipments.

¹ "NDPS Act"



2.2. On 11th July, 2023, the Applicant Mohit Jaiswal made personal and telephonic inquiries at the Baraut Post Office about parcels addressed to “Rohit Yadav” and “Anil Kumar,” claimed them as his, and attempted to take delivery while concealing his face. Upon sensing the CBI team, he dropped the parcel and fled, remaining absconding until his arrest on 13th July, 2023.

2.3. The Postman’s statement confirms the Applicant’s inquiries and attempted collection. Charge-sheets have been filed, charges are framed in the connected case, and the CBI states that the probe into a larger international drug network is ongoing.

3. Counsel for the Applicant contends that the Applicant has been falsely implicated and has already undergone over two and a half years of incarceration. He submits that he was granted interim bail earlier, complied with all conditions, and surrendered on time. The case against him, according to the CBI, rests only on the allegation that he went to the Post Office to collect parcels at the behest of his brother-in-law; however, he had no knowledge of the contents, and no recovery has been made from him or his premises. There are no monetary transactions, call detail linkages, or any other material connecting him to the alleged cartel. He stresses that the co-accused, Anil Kumar and Vinod Jaiswal have already been granted bail, and therefore the Applicant is entitled to bail on merits as well as on the principle of parity.

4. The CBI opposes the bail application and submits that the offence involves a commercial quantity of MDMA, which attracts the rigours of Section 37 of the NDPS Act. The Applicant’s conduct during the controlled delivery, including arriving at the Post Office with his face covered, making



inquiries both telephonically and in person, and fleeing on noticing the CBI team, indicates prior knowledge of the illicit nature of the parcel. The Postman's statement confirms that the Applicant had claimed both parcels and was actively seeking their delivery. Given the seriousness of the offence, the magnitude of the contraband, and the Applicant's conduct suggesting flight risk, the statutory conditions under Section 37 are not satisfied and bail should be denied.

5. The Court has considered the rival submissions. The present FIR arises from the same Interpol Reference dated 04th July, 2023, that led to registration of RC2202023E0016. Both FIRs were registered on 06th July, 2023, on identical allegations relating to suspected drug parcels sent to India. The factual matrix in the present case is identical to that in RC2202023E0016. In that case, after examining the Applicant's contention regarding absence of conscious possession, this Court rejected his bail application by a detailed order. The material presently on record discloses no material distinction in facts or in the role attributed to the Applicant.

6. As per CBI, on 11th July, 2023, the Applicant went to the Post Office, made inquiries about the parcels and attempted to collect them. On sensing the presence of the CBI team, he dropped the parcel and fled from the spot and was subsequently arrested on 13th July, 2023. In this backdrop, his plea that he had no knowledge of the contents and was not in possession of the parcels is, at this stage, difficult to accept. The material on record indicates that the Applicant personally visited the Post Office, made prior enquiries, and sought delivery of parcels addressed not to him but to "Rohit Yadav" and to his driver, Anil Kumar. His act of approaching the Post Office with his face covered and immediately fleeing on noticing the CBI team is a



strong indicator of awareness of the illicit nature of the consignment. The explanation that he was merely acting at the instance of his brother-in-law, Vinod Kumar Jaiswal, who is not shown to be a consignee, also does little to exculpate him. Even if this explanation is assumed to be true for the present purposes, his conduct reflects active involvement in securing delivery of the parcels and, *prima facie*, points to conscious facilitation of their receipt.

7. The concept of ‘possession’ under the NDPS Act, as elucidated by the Supreme Court in *Mohan Lal v. State of Rajasthan*² contemplates either physical custody accompanied by *animus* (that is, knowledge coupled with an intention to exercise control over the contraband) or constructive possession founded solely on such *animus*. Possession may thus be actual or constructive, but in either case, the core requirement is conscious awareness of the substance and an intention to retain dominion over it. Tested on this touchstone, the Applicant’s conduct in personally visiting the Post Office, making inquiries about the parcels, seeking delivery of consignments not addressed to him, and fleeing on noticing the presence of the CBI, collectively establishes, at least *prima facie*, knowledge of and intent to secure the parcels. These circumstances, *prima facie* are sufficient, at this stage, to meet the threshold of conscious possession under the Act.

8. The argument that there are no monetary transactions, call detail records, or other technical material linking the Applicant to any larger cartel is also unpersuasive at this stage. The case against him does not rest on financial or digital trails alone but substantially on his overt acts in attempting to retrieve the parcels in a clandestine manner. The absence of banking or telephonic records by itself cannot neutralise the incriminating



inferences arising from his conduct at the spot. In prosecutions of this nature, it is not unusual that money trails or digital communications are obscured or routed through intermediaries. Whether the Applicant had knowledge of the precise contents of the parcels or a wider role in any trafficking network are matters that must be tested on evidence at trial, and cannot be conclusively determined in bail jurisdiction.

9. On the aspect of period of custody, it is not in dispute that the Applicant has remained incarcerated for more than two years and six months. Ordinarily, the length of pre-trial detention is a significant factor in bail adjudication. However, in the context of commercial quantity offences under the NDPS Act, Section 37 introduces a statutory embargo, and the duration of custody, standing alone, cannot override the mandated twin conditions.

10. The reliance placed on the bail orders of co-accused is also misplaced. Bail was granted to Vinod Jaiswal on a distinct factual basis, the case against him resting essentially on the Applicant's disclosure statement without independent corroboration. Anil Kumar's release was similarly founded on material personal to him. The Applicant's role, by contrast, is anchored in his own presence and actions at the Post Office. The doctrine of parity, therefore, is not attracted on these facts.

11. The consignment in question contained a commercial quantity of MDMA, and the material on record, at this stage, supports a *prima facie* inference of conscious or, at the very least, constructive possession by the Applicant. The Court is unable to form the requisite satisfaction that there are reasonable grounds to believe that the Applicant is not guilty of the

² (2015) 6 SCC 222



alleged offence or that he is unlikely to commit an offence while on bail. In the absence of such satisfaction, the statutory bar under Section 37 operates in full force, and the Applicant cannot be extended the benefit of bail.

12. In view of the above, the Court finds no ground to grant the relief sought.

13. The Application is dismissed along with pending application(s), if any.

SANJEEV NARULA, J

DECEMBER 1, 2025

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