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

+ **BAIL APPLN. 4255/2024**

ANKIT SHARMA

.....Petitioner

Through: Mr. Bibek Tripathi, Mr. Y. Lokesh,
Mr. Sudhakar Tiwari, Mr. Ajay Kr.
Shrivastav and Mr. Manoj Kumar,
Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State.
SI Sandeep Kumar, SI Deepak Yadav,
Anti-Narcotics Squad, South District.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **31.07.2025**

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 61/2024 dated 17th January, 2024, registered under Sections 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985³ at P.S. Kotla Mubarakpur. Following investigation, a chargesheet and a supplementary chargesheet have been filed. The Applicant's first bail application was

¹ "BNSS"

² "Cr.P.C."

³ "NDPS Act"



rejected by order dated 7th November, 2024 by ASJ-04, Special Judge (NDPS), South East District, Saket Courts, New Delhi.

Factual Matrix

2. The case of the prosecution against the Applicant is as follows:

2.1 On 16th January, 2024, at about 09:45 PM, SI Sonu Kumar Jha of the Narcotics Squad, Madangir, South District, received specific intelligence that one Ankit Sharma (the Applicant), would be transporting a large quantity of narcotic drugs – injections and tablets in a Wagon R car, under BP Marg flyover, Sewa Nagar, Kotla Mubarakpur, New Delhi.

2.2 Acting upon receiving information, a raiding team was constituted and proceeded to the location along with the secret informer. Attempts were made to associate public witnesses at the spot; however, none agreed to join.

2.3 At around 10:35 PM, the above-mentioned car was intercepted, and the driver, identified as Ankit Sharma, was apprehended. He was apprised of his rights under Section 50 of the NDPS Act, but he declined to be searched before a Gazetted Officer or Magistrate.

2.4 The search of the vehicle, led to recovery of three cartons of Pheniramine Maleate Injection I.P. (Avil) – one from the seat of the car and two from the trunk, containing a total of 1200 vials. Additionally, 600 tablets of Addnok-N (Buprenorphine 2mg and Naloxone 0.5mg) were found inside the glove box in an orange polythene, with cartons labelled, “*For supply to de-addiction centres only.*” The total weight of all 600 tablets of Addnok-N was calculated to be approximately 63.3 grams. The recovered contraband was sealed and subject FIR was registered and the Applicant was arrested.



2.5 During interrogation, the Applicant disclosed that the recovered substances were handed over to him by co-accused Vikas Chauhan for supply to co-accused Farman @ Sakir @ Honey Singh. On 18th January, 2024, Farman was arrested based on the disclosure made by the Applicant and confirmed that the contraband was meant for him.

2.6 On 18th January, 2024, the Investigating Officer moved an application before the Metropolitan Magistrate, Saket Courts, for initiating inventory proceedings under Section 52A of the NDPS Act. Said proceedings were carried out on 29th January, 2024, during which samples were drawn from the seized Avil injection cartons and the Buprenorphine tablets. The Addnok-N tablets, weighing 63.3 grams in total, fall within the definition of “commercial quantity.” The samples were forwarded to FSL, Rohini, and the analysis report is awaited.

2.7 The vehicle involved was found to be registered in the name of Vikas, who surrendered on 2nd April 2024. During interrogation, Vikas disclosed that he was running a medical shop and that the contraband was given by him to the Applicant. He further stated that he was aware it was to be supplied using his vehicle.

2.8 Investigation has revealed that the Applicant procured the Buprenorphine tablets by impersonating one “Munna” and obtaining them from a de-addiction clinic in Ghaziabad, using forged documents. Consequently, Section 419 of the Indian Penal Code, 1860 was subsequently added.

2.9 Charge sheet against Ankit and Farman was filed on 11th March, 2024. A supplementary charge sheet against Vikas was filed on 30th May, 2024. A total of 19 witnesses has been cited in the main charge sheet and 13



in the supplementary charge sheet.

Contentions of the Applicant

3. Counsel for Applicant urges the following grounds in support of the application:

3.1. The quantity of Buprenorphine allegedly recovered from the Applicant would not qualify as a “commercial quantity” under the NDPS Act. Each Addnok-N tablet contains only 2 mg of Buprenorphine, and thus the active content in 600 tablets would amount to merely 1.2 grams, which would at best fall within the category of “intermediate quantity.” Therefore, the rigours of Section 37 of the NDPS Act would not be attracted;

3.2. The Applicant was arrested on 16th February, 2024, but was not produced before the Metropolitan Magistrate until 18th February, 2024, beyond the 24-hour mandate stipulated under Article 22(2) of the Constitution of India and Section 57 of the Cr.P.C., rendering the arrest procedurally defective;

3.3. There has been non-compliance with Section 52A of the NDPS Act, which requires that the seized contraband be certified by a Magistrate at the time of inventory, sampling, and sealing. He places reliance on the judgement in ***Kashif v NCB***⁴ wherein it was held that application under Section 52A of the NDPS Act ought to have been moved within 72 hours from the date of seizure which has not been done in the present case;

3.4. The Applicant has been falsely implicated. The investigation has concluded and both the main charge sheet and supplementary charge sheet have already been filed. Hence, further incarceration, it is urged, is

⁴ Bail Appln No. 253 of 2023



unwarranted. Reliance is placed on the fact that co-accused Farman and Vikas have already been released on bail;

3.5. Having regard to the totality of the circumstances, including the period of incarceration exceeding 19 months, the absence of any prior criminal antecedents, and the fact that trial is going to protracted considering the facts that till date charges are yet to be framed, the Applicant seeks his release on bail.

Contentions of the State

4. Mr. Mukesh Kumar, APP for the State, on the other hand, strongly opposes the bail on the following grounds:

4.1. The offence is of grave and serious nature and affects the society at large;

4.2 The recovery of Buprenorphine tablets from the Applicant amounts to a commercial quantity and, therefore, the rigours of Section 37 of the NDPS Act are attracted. Consequently, the Applicant must satisfy the twin conditions under Section 37, namely, that there are reasonable grounds for believing that he is not guilty of such offence and is not likely to commit any offence while on bail, which are not satisfied in the present case;

4.3. The CDR analysis reveals that the Applicant was in constant touch with other co-accused, thereby evidencing his active involvement in the alleged conspiracy to distribute controlled drugs;

4.4. Insofar as the Applicant's plea of parity is concerned, the same is misplaced, inasmuch as no contraband was recovered from the possession of the co-accused who have been granted bail. In contrast, a substantial quantity of contraband was seized from the Applicant, thereby placing him



on a different footing disentitling him to invoke the plea of parity.

Analysis

5. The Court has considered the aforementioned contentions. The present case pertains to Buprenorphine, which is a Schedule H1 Drug under the Drugs and Cosmetics Act, 1940. Being classified under Schedule H1, it can only be dispensed on the prescription of a registered medical practitioner, and are subject to strict record-keeping to guard against diversion and misuse.

6. Rule 66 of the Narcotic Drugs and Psychotropic Substances Rules, 1985⁵ imposes a general restriction on the possession of psychotropic substances, including Buprenorphine, allowing such possession only in accordance with the Drugs and Cosmetics Rules, 1945. Therefore, only registered medical practitioners, licensed pharmacies, approved de-addiction centres, or individuals with valid prescriptions may lawfully possess such substances, and even then, only within prescribed quantity limits. The rule further lays down that the possession for personal medical use cannot exceed 100 dosage units at a time, or 300 dosage units if the person is under long-term treatment with the express prescription of a registered medical practitioner. Any possession beyond this limit is impermissible in law and attracts penal consequences under the NDPS Act.

7. Rule 67A of the NDPS Rules, 1985 permits the use of psychotropic substances, including Buprenorphine, for the treatment of drug addiction. Such use is allowed only by certain government hospitals, municipal health institutions, or other entities that are specifically approved by the Central

⁵ “NDPS Rules”



Government including registered private psychiatric clinics to procure and dispense Buprenorphine, but only under strict documentation and record-keeping protocols.

8. In the present case, the prosecution claims that the Buprenorphine tablets recovered from the Applicant were traced back to a private psychiatrist, Dr. Sartaj Deepak, who dispensed such medication for de-addiction treatment. As per the statement of the doctor, the Applicant had gotten himself registered at the clinic, claiming to be suffering from substance addiction, and had been receiving treatment since then. He stated that the medication, Buprenorphine in particular, was dispensed to the Applicant over this period, purportedly for the purpose of de-addiction.

9. The investigation *prima facie* reveals that the Applicant had procured the drugs by impersonating one “Munna”. Though the mobile number and the photograph available in the de-addiction clinic’s records correspond to the Applicant, the Aadhaar card submitted at the time of registration was found to belong to one Munna, who, during the course of investigation, categorically denied ever registering with the clinic or undergoing any treatment. Furthermore, the photograph affixed in the patient file under the name “Munna” does not match the Aadhaar card holder but instead matches the facial features of the Applicant. This lends credence to the allegation that forged identity documents were used to procure Buprenorphine tablets, pointing to deliberate impersonation and abuse of the de-addiction protocol to obtain psychotropic substances illegally.

10. At this stage, there are *prima facie* indications of impersonation, misrepresentation, and possession beyond statutory limits. The Applicant's conduct in registering under a false name suggests that the possession of



Buprenorphine was unauthorized, not for legitimate medical use, and potentially intended for diversion or misuse, thereby invoking the statutory provisions of the NDPS Act.

11. Furthermore, the Applicant's argument that the contraband was recovered from the vehicle he was driving, and not from his person, and therefore he cannot be said to be in possession, is untenable. Similar arguments have been rejected by the Courts, including in ***Dharampal Singh v. State of Punjab***⁶, where the Supreme Court considered recovery from a private vehicle and found that, in the absence of any plausible explanation, the circumstance pointed to conscious possession. In the present case as well, the vehicle was under the control of the Applicant and currently, there is no material on record to indicate that he was unaware of the presence of the psychotropic substance.

12. The argument that the recovered tablets contain only 2 mg of buprenorphine each, and that the total active content amounts to merely 1.2 grams, well below the 20-gram threshold for commercial quantity, is also devoid of merit. The Supreme Court, in ***Hira Singh v. Union of India***⁷, held that for the purpose of determining whether a recovered quantity is "small," "intermediate," or "commercial," the total weight of the mixture or substance containing the narcotic drug or psychotropic substance must be considered, not merely the pure drug content. In the present case, the total weight of the tablets recovered is 63.3 grams, which exceeds the threshold of 20 grams and thus qualifies as a commercial quantity under the law and thus, rigours of Section 37 of the NDPS Act would be attracted.

⁶ (2010) 9 SCC 608

⁷ 2020 INSC 348



13. In light of the above, the cumulative material placed on record *prima facie* points to the Applicant's active involvement in the commission of the alleged offence.

14. With respect to the alleged non-compliance of Section 52A of NDPS Act, it is noted that the application for inventory and sampling was moved on 18th January, 2024, and the inventory process was conducted on 29th January, 2024. The Court, *prima facie*, at this stage, does not find any deliberate violation that would compromise the integrity of the seized samples or cause prejudice to the Applicant. Moreover, the judgment in **Kashif v. NCB**, relied upon by the Applicant, was subsequently overruled by the Supreme Court in **NCB v Kashif**⁸.

15. As regards the Applicant's plea that the grounds of arrest were not provided to him at the time of arrest, it is noted that on 18th January, 2024, the IO filed an application seeking one-day police remand. The reasons for seeking the remand, namely to interrogate the Applicant in order to connect him with the crime and to obtain information about the source and supply of the contraband and other relevant details, were urged before the Court. At that time, the Applicant was present before the Court along with his Counsel. The application for remand clearly specified the said reasons, which were communicated to the Applicant when he was sent to one-day police custody remand. Therefore, in the opinion of the Court, this ground urged by the Applicant in support of bail does not merit consideration.

16. The contention that the Applicant has been in custody for over 19 months and should therefore be granted bail, also does not carry weight in the context of the facts of the case, especially considering the serious nature



of allegations, the commercial quantity involved, and the manner in which the contraband was procured.

17. In light of the foregoing, and keeping in view the statutory bar under Section 37 of the NDPS Act, the Court is not inclined to grant bail at this stage. The application is accordingly dismissed.

18. 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.

SANJEEV NARULA, J

JULY 31, 2025

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⁸ 2024 INSC 1045