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

+ **CRL.M.C. 7538/2025 & CRL.M.A. 31558/2025**

BHUPRAJ THAPA

.....Petitioner

Through: Mr. Adarsh Priyadardhi, Mr. Apoorv
Shankar and Ms. Sandhya,
Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.10.2025

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1. The present petition under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023¹ assails the order dated 26th September, 2025 passed by the Special Judge, NDPS, Patiala House Courts, New Delhi declining the Petitioner's request to travel to Nepal for a period of two weeks.

2. The Petitioner is on regular bail in FIR No. 295/2024 under Section 22(C)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.²

3. Counsel for the Petitioner emphasises that Petitioner is on regular bail, yet his liberty of movement remains curtailed. He is a permanent resident of Nepal and seeks permission to visit his 85-year-old father who is bedridden and unable to travel to India. Counsel points out that the

¹ "BNSS"

² "NDPS Act"



prosecution is at a nascent stage. Charges have not yet been framed and there is no realistic timeline for conclusion. The Petitioner undertakes to return on the dates fixed and to participate in all further proceedings. The Petitioner has consistently adhered to his bail conditions: reporting as directed, appearing at court hearings, and surrendering punctually when previously granted interim bail. On that basis, counsel contends that the apprehension of flight is purely conjectural. The Petitioner has a settled address, family ties, and no criminal antecedents. He is willing to furnish a detailed itinerary, provide contact coordinates abroad, execute a fresh bond, and submit to any reasonable conditions the Court may impose to reassure the Court that he will return and face trial.

4. Mr. Amit Ahlawat, APP for the State, opposes the plea. He submits that the risk of flight is real and not conjectural. The Petitioner is a Nepali national facing prosecution for an offence under the NDPS Act carrying a stringent sentencing framework and restrictive bail regime; the incentive to abscond is therefore pronounced. It is further urged that the Petitioner has no visa history placed on record and is stated to have entered through a porous land border, which makes *post-facto* enforcement difficult. Even assuming inter-sovereign cooperation mechanisms are available, securing a fugitive's return from Nepal is neither automatic nor expeditious, and any default would stall the trial irretrievably. On this footing, the State argues that permitting international travel at this stage would jeopardise the administration of justice and that the balance must weigh in favour of ensuring the Petitioner's continued availability to face trial.

5. The rival positions have been considered. The State's apprehension cannot be brushed aside. The Petitioner is a foreign national facing



prosecution for a grave offence under the NDPS Act. Grant of leave to travel outside India, materially heightens flight risk. Even where inter-sovereign cooperation exists, securing the return of an absconding accused from a foreign jurisdiction is neither automatic nor time-bound; the process typically entails requests through diplomatic channels, mutual legal assistance mechanisms, and court proceedings in the requested State. In practical terms, any default would stall the trial and jeopardise the administration of justice. On this axis of risk, the balance leans against permitting travel at this stage.

6. The Sessions Court, while declining the Petitioner's request, recorded the following observations:

8. *Considering the fact and circumstances of the case although this Court is of full conformity of the law laid down in the decisions cited by the Ld. Counsel for applicant/accused, however, it has to be noted that the right to travel abroad is a fundamental right under Article 21 of the Constitution of India, however, the said Fundamental Right is not an absolute right. The decisions of the said cases are distinguishable on facts and are not applicable to the facts of the present case. The applicant/accused is a foreign notional, who does not have any passport. He entered in India, owing to the porous international borders between India and Nepal. The Applicant/accused committed an offence after entering this country and the hands of justice can not be ruled out. Furthermore, the grounds, raised in the present application for the said travel i.e. to attend a festival is not a ground which deserves any special consideration by this Court. Furthermore, the father of the applicant/accused is not suffering from any ailments, at least no medical document(s) have been filed alongwith the present application. It is not the case that his father is suffering from a terminal disease or is advised a life saving surgery or any other similar ground, for this Court to exercise its discretion in his favour. The application is devoid of any merits. Therefore, the same is hereby dismissed.*

9. *Application is disposed of accordingly.*

10. *Copy of this order be given dasti as prayed for.*

7. Indeed, the right to travel, though protected under Article 21 of the



Constitution of India, is not absolute; the Petitioner is a foreign national stated to have entered through a porous land border; the purpose cited did not warrant exceptional indulgence; and no medical material was furnished to substantiate the medical condition of the Petitioner's father. The impugned reasoning reflects a correct approach to the competing interests: personal liberty on the one hand and the court's duty to ensure the accused's availability for trial on the other. It does not disclose a jurisdictional error or perversity calling for interference. Moreover, it bears emphasis that the Petitioner discloses no attachable assets or security within India to secure his return. In the absence of a realizable domestic stake such as cash deposit, solvent surety, or identifiable property, the risk tilts further against leave to travel.

8. In view of the above, this Court finds no reason to interfere with the impugned order. Accordingly, the present petition is dismissed along with pending application(s).

SANJEEV NARULA, J

OCTOBER 27, 2025/MK