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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Judgment Delivered on 25.03.2025*

+ **BAIL APPLN. 4280/2024**

**ARPAN ALIAS BABLOO**

.....Petitioner

Through: Mr. Akshay Bhandari, Mr. Janak Raj  
Ambavat, Ms. Megha Saroa, Mr.  
Anmol Sachdeva and Mr. Kushal  
Kumar, Advs.

versus

**STATE GOVT OF NCT OF DELHI**

.....Respondent

Through: Mr. Utkarsh, APP for State with SI  
Vishan Kumar ANTF, Crime Branch

**CORAM:**  
**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**JUDGMENT**

**VIKAS MAHAJAN, J**

1. The present application has been filed under Section 483 read with Section 528 BNSS seeking regular bail in connection with FIR No. 120/2021 under Sections 20/25/29 NPDS Act registered at PS Crime Branch, North West, Delhi.
2. The case of the prosecution is that on 01.07.2022 a secret information was received by SI Vishan Kumar that one person namely, Arpan @ Babloo (petitioner herein) alongwith his associate Suman, who are dealing in the supply of heroin, would be coming from Sultanpuri to Mangolpuri Flyover near Mangolpuri Industrial Area, Delhi to supply contraband to unknown

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persons and if a raid is conducted, they both can be apprehended alongwith high quantity of heroin.

3. Accordingly, police constituted a raiding party and went to the informed place. There the raiding party saw petitioner/ Arpan @ Babloo alongwith co-accused Suman on a motorcycle. They had stopped the motorcycle near Mangolpuri Flyover where they were waiting for someone. The police overpowered both, the petitioner, as well as, Suman and took them into custody.

4. Upon search of petitioner, 300 gms of heroin was recovered from the left side pocket of his jeans. Likewise, from co-accused Suman, 200 gms of heroin was recovered from her pink coloured purse.

5. The learned counsel for the petitioner submits that co-accused Suman has been granted bail by this Court *vide* order dated 28.10.2024 passed in BAIL APPLN. 3271/2024. He submits that the petitioner is in custody since 01.07.2022 and till date only 02 witnesses have been examined and 18 witnesses are yet to be examined.

6. He further submits that the petitioner has clean antecedents and his overall jail conduct is satisfactory. He further submits that the petitioner was granted interim bail on number of occasions and the same was never misused by him. He, therefore, urges that the petitioner be released on bail.

7. *Per contra*, the learned APP appearing on behalf of the State has argued on the lines of the status report. He submits that the quantity recovered from the petitioner is commercial. Besides that, 200 gms of heroin was recovered from co-accused Suman who was accompanying the petitioner when they were apprehended, therefore, the total recovery is 500 gms. He,



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therefore, contends that the petitioner is not entitled to bail since the rigors of Section 37 of NDPS Act, 1985 are applicable.

8. I have heard the learned counsel for the petitioner, as well as, learned APP for the State.

9. The recovery made from the present petitioner is although of commercial quantity but it is not in controversy that the petitioner is not involved in any other similar case. Further, the custody period of the petitioner till date is more than two years as borne out from the nominal roll.

10. A perusal of the status report also shows that the prosecution has cited as many as 20 witnesses, of which only two (02) have been examined till date, therefore, the trial is likely to take a long time. Therefore, the petitioner is entitled to the benefit of the decision of the Hon'ble Supreme Court in ***Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 1109***. The relevant paras of which reads thus:

*“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1<sup>st</sup> condition stands complied with. So far as the 2<sup>nd</sup> condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. **The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.**”*

(emphasis supplied)

11. Likewise, in ***Naeem Ahmed Alias Naim Ahmad vs. Govt. of NCT of Delhi, 2024 SCC OnLine SC 220***, the Hon'ble Supreme Court granted bail to



the accused from whom commercial quantity of contraband was recovered, having regard to his custody of 01 year and 11 months, the fact that the accused had no criminal antecedents and that the conclusion of trial would take time. The relevant paras of the decision reads as under:

***“8. It is informed by learned counsel for the parties that the appellant has, as on date, spent more than 01 year and 11 months in custody. The investigation is complete but framing of the charges is yet to be done. The conclusion of trial will thus take time. There are no criminal antecedents.***

***9. It is a seriously debatable question of fact whether the appellant was also found in the conscious possession of the contraband (smack). But such a question of fact will obviously be determined by the Trial Court at an appropriate stage. That being so, it seems to us that as of now, the twin test of Section 37 of the Act, need not be invoked against the appellant.***

***10. Taking into consideration the totality of the circumstances, especially the period of custody undergone by the appellant however, without expressing any views on the merits of the case, the appeal is allowed. Accordingly, the appellant is ordered to be released on bail subject to his furnishing the bail bonds to the satisfaction of the Trial Court.”***

(emphasis supplied)

12. Although, Section 29 of NDPS Act, 1985 has been invoked in the present case, but the co-accused Suman, who was accompanying the petitioner on the same motorcycle when they were both apprehended and from whom the recovery of intermediate quantity was also made, has already been granted bail.

13. In view the above decisions and having regard to the circumstances in the entirety, especially the period of custody undergone by the petitioner, his



clean antecedents and the fact that the trial is still at the initial stage, the conclusion of which would take time, this Court is of the view that the petitioner is entitled to grant of regular bail.

14. Accordingly, the petitioner is admitted to bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/JMFC/Duty JM, further subject to the following conditions:

- (i) The applicant shall not leave NCR without prior permission of the concerned Court.
- (ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- (iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- (iv) The applicant shall not directly/indirectly try to get in touch with any prosecution witnesses or tamper with the evidence.
- (v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

15. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on merits of the case.

16. The application is disposed of.

17. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.



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18. Order *dasti* under signatures of the Court Master.

**VIKAS MAHAJAN, J**

**MARCH 25, 2025/N.S.ASWAL**