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

\+ BAIL APPLN. 4424/2025

JAFAR IQBAL @ GUDDU @ MONU .....Petitioner

Through: Mr. S.K. Sharma, Mr. Abhinav, Mr. Virendra and Ms. Vaishnavi R., Advocates.

versus

STATE OF NCT DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP for State. SI Hemant Kumar, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 22.12.2025

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (corresponding to Section 439 of the Code of Criminal Procedure, 1973) seeks regular bail in the proceedings arising from FIR No. 209/2025 dated 11th August, 2025, registered at P.S. Crime Branch, Delhi, under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985[2].

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

2.1. On 10th August, 2025, acting upon secret information, a raid was conducted at a residential premises situated in Sangam Vihar, New Delhi, wherein co-accused Arif and Shivam Gupta were found present, in

[1] "BNSS"
[2] "NDPS Act"

possession of certain contraband. After due compliance with mandatory provisions of the NDPS Act, recoveries were effected. At the instance of co-accused Arif, 95 grams of Charas, 61 grams of organic Ganja, cash amounting to INR 12,09,500/-, and a blue plastic drum containing 6.05 kg (net) Ganja were recovered. From co-accused Shivam, 6 grams of hybrid Ganja and 11 grams of Charas were recovered. In addition, three digital weighing machines and packing materials were seized, indicating organized trafficking. The entire search and seizure proceedings were video-graphed, and the contraband recovered falls within the intermediate quantity.

2.2. During interrogation, accused Arif disclosed that he is working in partnership with the Applicant, Jafar Iqbal, who is the primary source and financier of the narcotics. He further stated that he had been residing at the Applicant's house, had gradually taken over the drug business, and eventually became an equal partner. It was further disclosed that the Applicant maintained contacts with multiple drug suppliers and managed procurement and distribution. On the date of the raid, the Applicant had allegedly left to procure additional narcotics and had instructed Arif to hand over packed consignments to co-accused Shivam Gupta.

2.3. Notices under Section 67 of the NDPS Act were issued to the Applicant. However, he did not join investigation and thereafter vacated the premises. Statements under Section 180 of the BNSS of the house owner and the caretaker were recorded. The recovery was effected from a residential premises under the control of the Applicant, thereby establishing his conscious possession and dominion over the contraband.

2.4. The Applicant's pre-arrest bail application as well as his subsequent regular bail application were dismissed by the Sessions Court. He was arrested on 08th September, 2025 from Bareilly, Uttar Pradesh, and three mobile phones were recovered from his possession. CDR/IPDR analysis allegedly establishes communication links between the Applicant and co-accused Arif and Shivam Gupta, along with financial connections with Shivam Gupta. The FSL report of the seized contraband returned positive.

3. Counsel for the Applicant makes the following submissions:

3.1. The Applicant has been falsely implicated in the present case. No narcotic substance, cash, or incriminating material was recovered either from the Applicant's personal possession or from the room occupied by him. The entire recovery was allegedly effected from a single room occupied by co-accused Arif, whereas the Applicant resided separately. His implication rests solely on disclosure statements of co-accused, which are inadmissible in law and insufficient to establish conscious possession or dominion, particularly in the absence of any recovery from the Applicant.

3.2. The alleged recoveries are of '*intermediate quantity*' and not commercial, therefore, the rigours of Section 37 of the NDPS Act are not attracted. The notices purportedly issued under Section 50 of the NDPS Act appear to be pre-printed and prepared without confirmation of the identity of the accused, casting serious doubt on the genuineness of the search and seizure proceedings. Further, the raid was conducted in a densely populated residential area, yet no independent public witness was associated, further eroding the credibility of prosecution case.

3.3. The investigation stands completed, the charge sheet filed and the alleged contraband seized. Thus, custodial interrogation is no longer warranted. The Applicant has no prior criminal antecedents and is the sole caregiver of his family. Continued incarceration would amount to an unjustified curtailment of his personal liberty under Article 21.

4. On the other hand, Mr. Amit Ahlawat, APP for the State, opposes the application and makes the following submissions:

4.1. The Applicant is the '*kingpin*' of an organized narcotics syndicate. Both Arif and Shivam Gupta have categorically disclosed that they were acting on the instructions of the Applicant, with Arif being his business partner and Shivam Gupta functioning as the delivery person. The raided premises, taken on rent by the Applicant, was allegedly being used for storage, packing, and distribution of narcotic substances. The recovery was effected from a closed residential premises under the control of the Applicant, where contraband was found stored in a concealed and organized manner along with digital weighing machines, packing materials, and substantial cash, thereby establishing his conscious possession and dominion. After the raid, the Applicant absconded, vacated the premises, and deliberately evaded investigation.

4.2. The Applicant has prior involvement in FIR No. 101/2022 registered at P.S. Noida Phase-II, Gautam Budh Nagar, Uttar Pradesh, under Sections 8/20 of the NDPS Act, reflecting his habitual engagement in narcotic offences. Reliance is placed on financial links between the Applicant and co-accused Shivam Gupta, as reflected from bank transaction records, as well as on electronic evidence, including a recording shown to the Court wherein the Applicant is stated to be clearly audible and identifiable. In view of the Applicant's central role in the syndicate, his links with suppliers and peddlers, and the nature of the evidence collected, it is contended that there exists a strong likelihood that, if released on bail, he may abscond, reoffend, influence or threaten witnesses, tamper with evidence, or evade the trial.

5. The Court has considered the submissions advanced and perused the material placed on record. At the outset, it is noted that the recovery effected in the present case is of intermediate quantity. Consequently, the rigours of Section 37 of the NDPS Act are not attracted, and the present bail application is required to be examined on the settled principles governing grant of bail under Section 483 BNSS (corresponding to 439 CrPC).

6. On the basis of the material placed on record, it emerges that the prosecution's case against the Applicant primarily rests on the disclosure statements of the co-accused. Admittedly, no contraband has been recovered from the personal possession of the Applicant or from the room allegedly occupied by him, and the recoveries have been effected from the co-accused. Further, as per the prosecution's own case, the raided premises was a shared residential accommodation, and the recoveries were effected from a room stated to be occupied by the co-accused. At this stage, no material has been placed on record to *prima facie* establish that the Applicant exercised exclusive possession, control, or conscious dominion over the specific area from which the contraband was recovered. In the absence of any independent recovery or direct incriminating material attributable to the Applicant, mere residence in the same premises cannot, at the stage of bail, be equated with conscious possession, and these aspects would require appreciation of evidence during trial.

7. The prosecution has placed reliance on the CDR/IPDR analysis to contend that the Applicant was in communication with Arif and Shivam. However, mere existence of telephonic contact, without anything more, does not by itself establish participation or complicity in the alleged offence. At this stage, the CDR/IPDR material only reflects instances of communication

and does not *prima facie* disclose the content, context, or purpose thereof. In the absence of independent and substantive corroborative material linking such communication to the commission of the alleged offence, the said records *prima facie* cannot be treated as determinative of the Applicant's involvement and would necessarily require detailed scrutiny during trial. The prosecution has further relied upon a recording as well as alleged bank transactions between the Applicant and the purported delivery person. The nature, purpose, and evidentiary value of these electronic records and financial transactions, including their admissibility and probative worth, are matters which necessarily require detailed examination and testing during trial and cannot be conclusively determined at the stage of consideration of bail.

8. As regards the contention relating to criminal antecedents, there seems to be a discrepancy between what is being submitted by the State in their Status Report and what has come on record in the Nominal Roll as on 17th December, 2025. Nonetheless, the mere pendency of another criminal case, without more, cannot be treated as an absolute bar to the grant of bail. The Supreme Court in ***Prabhakar Tiwari v. State of Uttar Pradesh***[3] has observed that while antecedents and involvement in other criminal cases are relevant considerations, they cannot, by itself, form the sole basis for denial of bail. Each case is required to be assessed on its own unique facts and circumstances.

9. The investigation is complete and the chargesheet stands filed. As per the Nominal Roll as on 17th December, 2025, the Applicant has undergone 3 months and 10 days of custody, and his jail conduct has been reported to be

satisfactory. In these circumstances, custodial interrogation of the Applicant is no longer necessary, and the apprehension expressed by the State regarding abscondence, influencing witnesses, or tampering with evidence can be adequately addressed by securing the Applicant's presence during trial through stringent conditions of bail.

10. Having regard to the nature of allegations, stage of proceedings, filing of charge sheet, absence of recovery from the Applicant, lack of material showing exclusive or conscious control over the place of recovery, and the fact that the accusations are yet to be tested on evidence, this Court is of the considered view that continued incarceration of the Applicant is not warranted, and the ends of justice would be met by granting bail to the Applicant at the present stage.

11. The Applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with two sureties 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;

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[3] AIR Online 2020 SC 96

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 the second Friday every third month.

12. 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.

13. 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.

14. Accordingly, the application is disposed of along with any pending application(s).

SANJEEV NARULA, J

DECEMBER 22, 2025
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