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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4444/2025**
DEVENDRA KAUSHIKA SELEVARAJ VASANTIPetitioner

Through: Mr. Harsh Vardhan Sharma, Mr.
Neeraj Kumar, Mr. Samarth Vikram
Singh, Mr. Shashwat and Mr. Harsh
Saini, Advocates.

versus

THE STATE (NCT OF DELHI)Respondent
Through: Mr. Aashneet Singh, APP.
SI Chandra Shekhar, ANS/West.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

02.12.2025

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1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 439 of the Code of Criminal Procedure, 1973) seeks regular bail in FIR No. 565/2025, registered at P.S. Rajouri Garden for the offences under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.¹

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

2.1. On 30th October, 2025, secret information was received by the Anti-Narcotics Squad, West District, that two women involved in the supply of heroin would be arriving near Woodland Park Gate, Najafgarh Road. Acting on this information, a raiding team was constituted and positioned at the indicated spot.

2.2. At about 04:35 PM, a Scooty arrived and was intercepted by the raiding team. The rider was identified as the Applicant, Kaushika @ Kitu,



and the pillion rider as co-accused Roza. No contraband was recovered from their personal search. However, on checking the storage compartment of the Scooty, certain packets were recovered which, on weighing, were found to contain a total of 439.55 grams of heroin. On this basis, the present FIR came to be registered and both accused were arrested.

2.3. During investigation, co-accused Roza stated that the recovered contraband was to be delivered on the instructions of her husband, Sumit, who had supplied the heroin to her for further distribution. She further disclosed that she had taken the Applicant along as a precautionary measure, assigning her the role of remaining alert and keeping watch over the surroundings at the time of delivery, while Roza herself was to hand over the contraband to the intended recipient.

2.4. Co-accused Sumit was subsequently arrested and, at his instance, 140 grams of heroin was recovered from his jhuggi. Technical analysis of his mobile number revealed regular contact with one Makhan Singh, who was then arrested. Scrutiny of Makhan Singh's mobile phone data revealed chat messages indicative of coordination in narcotics supply, which in turn, led to the arrest of Manish Singh, identified as the intended recipient of the contraband recovered in the present case.

3. Counsel for the Applicant urges the following grounds seeking bail:

3.1. The Applicant is an 18-year-old undergraduate student at N.R. Swamy College of Commerce and Economics and Smt. Thirumalai College of Science (S.I.W.S.). She has no criminal record and has been falsely implicated. She is a permanent resident of Mumbai and had come to Delhi only for a short visit during her semester break to meet relatives.

¹ "NDPS Act"



3.2. On the date of the alleged incident, the Applicant had merely accompanied co-accused Roza to visit a doctor, who was feeling unwell. Out of concern, she agreed to drive Roza to the clinic. The Applicant asserts that she had no knowledge, control, or dominion over the vehicle or over any substance subsequently recovered therefrom. The scooty does not belong to her and was primarily used by co-accused Sumit for his personal purposes. The Applicant had neither previously used nor handled this vehicle and was unaware of any contents in its storage compartment.

3.3. The Applicant was neither in physical nor in conscious possession of any narcotic substance, which is a necessary ingredient to attract liability under the NDPS Act. The prosecution has not produced any material demonstrating that the Applicant was aware of, or had any degree of control over the contraband allegedly recovered.

3.4. The chargesheet has already been filed and all recoveries stand effected; therefore, the continued custodial detention of the Applicant is not required.

3.5. No independent witness was joined at the time of the alleged recovery, despite the search having taken place at a public location. The recovery proceedings were conducted solely by police officials, casting doubt on the authenticity of the proceedings.

4. On the other hand, Mr. Aashneet Singh, APP for State, opposes the bail application. He submits that the Applicant was driving the conveyance used for the transportation and distribution of narcotics and, therefore, was in conscious and joint possession of the contraband. It is pointed out that 439.55 grams of heroin were recovered from the storage compartment of the vehicle, which falls within the category of “commercial quantity”, thereby



attracting the statutory embargo and rigours of Section 37 of the NDPS Act. In view of the nature and gravity of the offence, the substantial quantity recovered, and the alleged role of the Applicant as part of an organised chain of supply, it is contended that she does not satisfy the twin conditions under Section 37 and is, therefore, not entitled to the discretionary relief of bail.

5. The Court has considered the facts of the case and the contentions advanced by the parties. While deciding a bail application, the Court must consider several factors, including whether there is a *prima facie* case or reasonable grounds to believe the accused has committed the offence, the likelihood of the accused repeating the offence, the nature and seriousness of the accusation, the severity of the potential punishment upon conviction, the risk of the accused absconding or fleeing if granted bail, and the reasonable apprehension of witnesses being intimidated by the accused. In prosecutions under the NDPS Act involving commercial quantity, these considerations operate within the discipline of Section 37, which requires the Court to be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that she is not likely to commit any offence while on bail.

6. The allegation against the Applicant rests on the recovery of heroin from the scooty which she was driving at the time of the incident, with co-accused Roza seated as pillion rider. The prosecution's case is that, by driving the vehicle, the Applicant was in conscious possession of the contraband. The expression "possession" under the NDPS Act has been authoritatively explained by the Supreme Court in *Mohan Lal v. State of Rajasthan*,² to encompass not merely physical custody, but also the mental

² (2015) 6 SCC 222.



element of animus or intent to exercise control. Possession may be actual or constructive; what is essential is that the accused has conscious knowledge of the substance and dominion over it. Mere physical proximity, without proof of such awareness and control, does not by itself establish conscious possession.

7. It is an admitted position that the scooty is registered in the name of co-accused Roza and was predominantly used by her husband, co-accused Sumit, for his personal purposes. It is also not in dispute that the Applicant is a resident of Mumbai, who had come to Delhi only for a short visit. No material has been pointed out, either by the State or by any co-accused, to suggest that the Applicant had any role in procuring, storing or transporting the contraband. At this stage, therefore, there appears to be no *prima facie* material demonstrating that the Applicant had knowledge of, or any degree of dominion over, the heroin recovered from the dickey of the scooty.

8. Significantly, neither co-accused Roza nor co-accused Sumit have attributed any role to the Applicant in their disclosure statements. The prosecution has also not drawn attention to any independent incriminating circumstance such as call-detail record linkages, location analysis, chats, or financial transactions indicating that the Applicant was involved in the alleged narcotics network or stood to benefit from the transaction. The evidentiary value of the recovery, the statements of the co-accused and other surrounding circumstances will, of course, be finally tested at trial. For present purposes, however, the absence of any specific attribution or technical/material corroboration, coupled with the Applicant's limited, one-off presence in Delhi, *prima facie* tilts in her favour when the test under Section 37 is applied.



9. The Court also cannot ignore that the Applicant is an 18-year-old college student with no prior criminal antecedents and is not alleged to be a habitual offender. The chargesheet has been filed, the substantive recoveries have been effected from the co-accused, and there is no assertion that her further custodial interrogation is required. In these circumstances, her continued incarceration would serve little purpose so far as investigation is concerned and would tend towards pre-trial punishment. The Supreme Court has held that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.³

10. In light of the foregoing facts and circumstances, this Court is satisfied that there are reasonable grounds, at this stage, for believing that the Applicant may not be guilty of the alleged offence in the sense required by Section 37, and is not likely to reoffend if released on bail. Accordingly, she is 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 NCT of Delhi, without the permission of the Trial Court;

³ Sanjay Chandra v. CBI, (2012) 1 SCC 40; Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51.



- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where she would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- f. The Applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.
- g. The Applicant shall report to the concerned Police Station on the first Friday of every third month.
- 11. 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.
- 12. 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.
- 13. The bail application is allowed in the afore-mentioned terms.
- 14. Copy of the order be communicated to the concerned Jail Superintendent for necessary information and compliance.

SANJEEV NARULA, J

DECEMBER 2, 2025/as