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

+ **BAIL APPLN. 60/2025**

SHAHBAN

.....Petitioner

Through: Mr. Mahendra Singh and Ms.
Saumya, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP for the State
with SI Krishna.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

11.09.2025

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1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No. 256/2022 dated 05.11.2022 for the offences punishable under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), registered at Police Station Crime Branch, Delhi.

2. Briefly speaking, per FIR, On 05.11.2022, acting on credible secret information received by the Anti-Narcotics Task Force (ANTF), Crime Branch, a team was deployed to the area near Mama Bhanja's Dargah, Rani Jhansi Road, Delhi, to intercept an individual allegedly involved in large-scale heroin trafficking. The informer identified the suspect, later confirmed as a resident of Sambhal, Uttar Pradesh, who was thus apprehended. The



suspect, applicant herein, Shahban was informed of his legal rights under Section 50 of the NDPS Act, including the right to be searched before a Magistrate or Gazetted Officer, which he declined in writing.

2.1 Upon conducting a personal search, two separate pouches containing powdery substances were recovered from the suspect's bag. Preliminary field testing confirmed the substances to be heroin, weighing approximately 1500 grams and 500 grams respectively, totalling 2 kilograms, a commercial quantity under the NDPS Act.

2.2 The contraband was duly sealed, marked, and documented in compliance with procedural safeguards. A seizure memo was prepared at the spot, and the accused was taken into custody for committing an offence under Section 21 of the NDPS Act. The case was registered accordingly, and further investigation ensued.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would further argue on the lines of grounds pleaded in the petition *inter alia* as below:-

4.1 The learned counsel would argue that despite arresting the main petitioner, Farman Ali, the police officials of the Crime Branch have failed to file a chargesheet against him. It is contended that this inaction appears to be an attempt to protect the actual mastermind, the primary supplier of the contraband, who was released by the police on 13.01.2023.

4.2 The learned counsel would argue that the petitioner Shahban, who is similarly innocent, has been falsely implicated in this matter. He has been arrested and chargesheeted without any credible basis. It is submitted that the recovery attributed to him was planted by the police, and he has no



connection whatsoever with the alleged offence.

4.3 The learned counsel would argue that the trial has been pending for prosecution evidence for an inordinate period, and for the past three scheduled hearings, the evidence has not been recorded solely due to delays caused by the prosecution. This delay is unnecessarily prolonging the petitioner's incarceration.

4.4 The learned counsel would argue that there are no public witnesses in the present case. The petitioner has already undergone more than two years in judicial custody without trial. It is emphasized that prolonged incarceration without conviction amounts to punishment before trial, which is contrary to the principles of justice.

4.5 The learned counsel would argue that there are several precedents from the Hon'ble Supreme Court of India and the Hon'ble High Court of Delhi which support the grant of bail in cases where the accused has been in custody for over two years. These include, among others, ***Naseen Ahmed @ Naim Ahmad vs. Govt. of NCT of Delhi***, ***Badshah Sk. vs. State of West Bengal***, and ***Mohd. Arbaz & Ors. vs. State of NCT of Delhi***.

4.6 The learned counsel would argue that the trial is likely to take substantial additional time to conclude. Meanwhile, the petitioner is willing to abide by all conditions imposed by this Hon'ble Court if released on bail. His continued detention serves no purpose, particularly when the investigative process is complete, and charges have already been framed.

4.7 The learned counsel would argue that there is no risk of tampering with prosecution evidence or influencing witnesses if the petitioner is released. This is because there are no independent public witnesses, and the primary witnesses are police officials, who are presumed to be professional



and unaffected.

4.8 The learned counsel would argue that the petitioner has been in custody since 06.11.2022. The fundamental principle of criminal jurisprudence is "bail, not jail," especially in cases where the trial is delayed, and the accused has remained in custody for an extended duration without conviction.

4.9 The learned counsel would argue that keeping in view the extensive period of judicial custody and the total number of witnesses yet to be examined, it would be just and proper to release the petitioner on bail, subject to suitable conditions.

4.10 The learned counsel would argue that there is nothing further to be recovered or discovered from the petitioner. His continued incarceration does not serve the interest of justice and would amount to pre-trial punishment.

4.11 The learned counsel would argue that two co-accused persons, namely Anita @ Kallo and Chand Babu, have already been granted regular bail. In the interest of parity, the petitioner also deserves the benefit of bail.

4.12 The learned counsel would argue once again that there is no apprehension of the petitioner tampering with the prosecution evidence or absconding, particularly because he has roots in the society and undertakes to appear on every date of hearing.

5. Learned APP for the State would oppose the bail plea arguing that the applicant deserves no indulgence from this Court as commercial quantity of psychotropic substances is involved in the incident.

5.1 She would further contend that evidence strongly indicates the accused's involvement in the drug trafficking network. Accordingly, the bail



application deserves to be dismissed.

6. Having heard, I am of the view that there may be some substance in some of the arguments on merits addressed by the learned counsel for the applicant but the same is matter of trial. However, I am of the view that at this stage, in light thereof, it is a fit case for bail. Let us see how.

7. The applicant was arrested on 06.11.2022 and has already remained in custody for a period of approximately 2 years and 10 months, and the progress of the trial has been at snail's pace. This prolonged incarceration, combined with the pace of proceedings, is also a contributory factor in the present case for granting bail.

8. Applicant is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

9. The applicant is in the prime of his age and has his entire career ahead of him, leading to his future opportunities getting hampered. One of the primary objects of bail is merely to secure the presence of the accused during trial. The applicant statedly has no criminal antecedents and poses no flight risk.

10. Taking wholesome view of the matter, the application is allowed. The applicant is directed to be released on bail on his furnishing personal bond and two local sureties of equivalent amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court.



11. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same. In case the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case *vide* instant order.

12. Accordingly, the bail application alongwith pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 11, 2025/rs