



\$~17

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 255/2026 & CRL.M.A. 2499/2026
ARSHAD HUSSAINPetitioner

Through: Mr. Sandesh Kamlesh Jha, Mr. Sachin Deshdeep, Mr. Narender Singh, Mr. Shashank Shekhar Singh, Mr. Shashank Rai, Mr. Amit Jaiswal, Mr. Ravi Mishra and Mr. Ayush Goel, Advs.

versus

NARCOTICS CONTROL BUREAURespondent

Through: Mr. Arun Khatri, SSC for NCB with Ms. Shelly Dixit with SI Mr. Pranavjeet Singh Ms. Yashi Bansal, Advocate and SI Ajit Singh.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **16.03.2026**

1. The present petition has been filed under Article 226 of the Constitution of India, seeking issuance of a Writ of *Habeas Corpus* declaring the arrest of the petitioner and the consequential remand order dated 17th October, 2025 as illegal and unconstitutional, and for directions for his release from custody.

2. The learned Senior Standing Counsel for the respondent/Narcotics Control Bureau (NCB), while giving a brief background of the case, states that on the basis of an information, a search was conducted at one Kabir Medicals, 7069, Ghass Mandi, Pahari Dhiraj, New Delhi which resulted in the recovery of 1633.08 grams of Tramadol capsules and 256.28 grams of Alprazolam tablets



from the co-accused-Mr. Mohan Lal, who was apprehended on 14th October, 2025. During investigation, Mr. Mohan Lal in his disclosure statement dated 16th October, 2025, stated that he used to source the said Tramadol capsules and Alprazolam tablets from the medical shop of the petitioner namely Rizvi Medicos, D-5 Ground Floor, Main Road, Shastri Park, New Delhi. Based on such disclosure, the officers of the respondent/NCB, on 16th October, 2025, went to the petitioner's shop. It is submitted that the petitioner was given a Notice under Section 67 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [**"NDPS Act"**] and was taken to NCB office for interrogation. The petitioner voluntarily gave his partial statement on 16th October, 2025 and complete statement on 17th October, 2025. It is submitted that based on the petitioner's disclosure, 1-2 packets of Tramadol capsules weighing 321 grams were recovered from his shop at his instance. Consequent upon the recovery and having "reasons to believe" that the petitioner has committed offence under Sections 8/22/25 and 29 of the NDPS Act, he was arrested on 17th October, 2025 at 4 PM. He was subsequently produced before the learned Magistrate on the same day, that is, on 17th October, 2025 at about 9:39 PM at the residence of the learned Duty Magistrate.

3. The learned counsel for the petitioner submits that the petitioner was illegally detained by the respondent/NCB authorities from the evening of 16th October, 2025 and that such detention continued till his production before the learned Magistrate on 17th October, 2025 at around 9:39 PM. It is argued by the learned counsel of the petitioner that the Constitutional safeguard under Article 22(2) requiring



production before a Magistrate within twenty-four hours of arrest stands violated as his custody exceeds the mandated 24 hours period. It is further submitted by the learned counsel of the petitioner that the petitioner was not informed of the grounds of arrest, thereby making his arrest and continued custody as ‘illegal’.

4. Rebutting the averments, the learned Senior Standing Counsel for the respondent/NCB submits that the petitioner was duly apprised of his grounds of arrest and the information of his arrest was also conveyed to his wife, as has been rightly recorded by the learned Duty Magistrate in her order dated 17th October, 2025. It is further submitted that this contention was not raised by the petitioner before the learned Magistrate at the initial stage, but was raised only at a belated stage of his bail application, which came to be dismissed.

5. On the point of the custody being termed as ‘illegal’, the counsel for respondent/NCB submitted that the NCB officials reached the shop of the petitioner at approximately 5:30 PM on 16th October, 2025 and pursuant to that, he was brought to the NCB office for interrogation. It is stated that the petitioner was not arrested on 16th October, 2025 due to lack of evidence and absence of “reasons to believe” that he had committed the offence. He was granted liberty to leave and was not forcefully detained by the NCB officials.

6. Placing reliance on the Arrest memo dated 17th October, 2025, the learned Senior Standing Counsel for respondent/NCB states that the petitioner was formally arrested on 17th October, 2025 at 4 PM. Since the Court had risen for the day, the respondent/NCB officials produced the petitioner at the residence of the learned Duty



Magistrate, at around 9:39 PM, in a timely manner on the same day of his arrest. It is prayed that the present petition be dismissed, being devoid of merit.

7. We have considered the rival submissions and perused the record produced by the respondent.

8. The principal contention raised by the petitioner is that he was apprehended on 16th October, 2025 and was produced before the learned Magistrate on 17th October, 2025 at around 9:39 PM, thereby exceeding the statutory period of twenty-four hours mandated under Article 22(2) of the Constitution and that he was not apprised of the grounds of his arrest, thereby declaring his custody and subsequent arrest by the respondent officials as ‘illegal’.

9. The remand order dated 17th October, 2025, passed by the learned Duty Judicial Magistrate clearly reveals that petitioner was arrested after following the due procedure. He was informed of the grounds of arrest, as also observed in the remand order dated 17th October, 2025. The petitioner also had the assistance of Legal Aid Counsel at the time of remand proceedings. No objection was taken by him that his detention by the NCB officials was illegal. Such objection however, has now been taken after almost four months. The stand of the NCB has been that since the statement of the petitioner was incomplete in the absence of “reasons to believe” at that point of time, it was not possible to arrest him and therefore he was at liberty to leave and was not forcibly detained by the NCB officials on 16th October, 2025.

10. Upon production before the learned Judicial Magistrate on 17th



October, 2025, the petitioner was remanded to judicial custody. The remand of the petitioner is a judicial function and therefore challenge to such order is not to be entertained in a *Habeas Corpus* petition unless it is shown that the remand order was absolutely illegal or the same was afflicted with the vice of lack of jurisdiction, which is not so in the present case.

11. More importantly, the application filed by the petitioner seeking bail, has been dismissed by the learned Special Judge (NDPS), New Delhi District, Patiala House Courts, *vide* order dated 26.02.2026 passed in Crime Number VIII/39/DZU/2025 titled **NCB v. Arshad Hussain**, observing as under:

“22. The principal ground urged by the applicant is alleged violation of Article 22(2) of the Constitution. However, the date of production before the Court is itself disputed in the application. When confronted with the inconsistency between the pleaded date and the prosecution record, the applicant declined to correct or clarify the factual foundation of his plea. In absence of a clear and established factual basis demonstrating violation of the 24-hour mandate, the arguments regarding violation of constitutional rights of the accused cannot be accepted at this stage.

23. Even otherwise, the record reflects that remand was sought and judicially authorized. It is settled law that once custody has been authorized by a competent court, the initial irregularity, if any does not automatically entitle the accused to release unless there is gross violation of the rights of the accused. In the present case, considering the discrepancy in the alleged date of first production before the Court remaining unexplained by the Ld. Counsel, prima facie, no case of such violation is made out.”



12. We are informed that the petitioner has also filed an application seeking bail before this Court, which is not yet listed.

13. Thus, on an overall conspectus, the petitioner has failed to prove his custody and arrest as illegal as the record suggests due compliance of the necessary statutory provisions.

14. Hence, we are of the considered opinion that the present petition seeking issuance of a Writ of *Habeas Corpus* is not maintainable and does not warrant interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

15. The present petition is accordingly dismissed, alongwith pending application(s), if any.

NAVIN CHAWLA, J.

RAVINDER DUDEJA, J.

MARCH 16, 2026/AK/RM/pb