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

\# **CNR No. DLHC010464992026**

\+ BAIL APPLN. 4105/2026

ISTAKAR @ MULLAJI .....Petitioner

Through: Mr. Mayank Chanchan, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR. .....Respondents

Through: Mr. Tarang Srivastav, APP for State.
SI Harish Kumar, PS Shahbad Dairy.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 29.10.2026

1. The Applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in FIR No. 373/2026, registered at Police Station Shahbad Dairy, for offences under Sections 8(c)/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985[1]. Subsequently, during investigation, Sections 29/31 of the NDPS Act were also invoked. He has been in custody since 3rd July, 2026. The Sessions Court dismissed his earlier applications, most recently on 22nd September, 2026.

2. The prosecution case originated with the apprehension of co-accused Pankaj @ Ustad on 24th June, 2026, from whom 53 tablets containing Buprenorphine and Naloxone, weighing 5 grams, and 53 vials of

[1] "NDPS Act"

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Pheniramine Maleate Injection were allegedly recovered. During the investigation, Pankaj identified the Applicant as his supplier. The police thereafter took Pankaj to Village Khichra, Uttar Pradesh, where he allegedly contacted the Applicant to procure further tablets. According to the prosecution, the Applicant arrived carrying a black bag and was apprehended while attempting to hand it over to Pankaj. The bag allegedly contained 44 tablets weighing 4 grams, one vial of Pheniramine Maleate Injection and a syringe. The FSL report confirms the presence of Buprenorphine and Naloxone in the samples examined. The prosecution also relies upon call detail records showing communication between the two accused.

3. Counsel for the Applicant submits that the recovery involves an intermediate quantity and the restrictions under Section 37 of the NDPS Act are, therefore, inapplicable. It is further submitted that the Applicant was receiving treatment for Opioid Dependence Syndrome at NDDTC, AIIMS, Ghaziabad, and the tablets were prescribed for his medical use. The allegation of trafficking is disputed, particularly in the absence of independent witnesses or evidence of any previous sale. The investigation *qua* the Applicant is complete, the chargesheet has been filed, and his continued detention is stated to be unnecessary.

4. The APP for the State opposes bail, maintaining that the Applicant was supplying psychotropic medicines to Pankaj and other persons. It is pointed out that although Buprenorphine was prescribed to the Applicant, Pheniramine Maleate Injection was not. The prosecution alleges that he was diverting medicines obtained under a de-addiction programme for unlawful sale. Reliance is also placed upon the circumstances of his apprehension, the

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call records and the possibility of his resuming similar activities or interfering with the investigation concerning another alleged purchaser, Rajan.

5. The quantity allegedly recovered from the Applicant is 4 grams of Buprenorphine-containing tablets. The notified commercial quantity for Buprenorphine is 20 grams. Even if the 5 grams recovered from Pankaj is considered alongside that attributed to the Applicant, the combined quantity remains below the commercial threshold. No offence under Sections 19, 24 or 27A is alleged. The twin conditions prescribed under Section 37(1)(b) of the NDPS Act are, therefore, not attracted. The application must nevertheless be examined with due regard to the seriousness of the alleged offence and the material connecting the Applicant with the unlawful supply of psychotropic substances.

6. The prosecution case against the Applicant cannot be characterised as resting solely upon Pankaj's disclosure statement. The police claim to have witnessed an attempted delivery of the bag, followed by recovery from the Applicant. The call records also establish communication between them. These are relevant circumstances which cannot be disregarded. At the same time, the call records do not disclose the nature or purpose of the conversations, while the allegations concerning earlier supplies rest principally upon statements made during investigation. The evidentiary value of this material, including the police account of the alleged delivery, will have to be determined at trial.

7. The Applicant's medical records assume significance in this context. The verification obtained by the investigating agency from NDDTC, AIIMS, confirms that he has been undergoing treatment for Opioid Dependence

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Syndrome since 2019 and was regularly dispensed Buprenorphine-N tablets, the last dispensing being on 30th June, 2026. Thus, his access to the medication has an established medical basis. This does not, by itself, establish that the recovered tablets were intended exclusively for his personal consumption. Equally, the fact that he was receiving prescribed medication cannot, without supporting evidence, be treated as proof that he was diverting it for sale. The recovery of an injection which was not prescribed to him is a circumstance favouring the prosecution, but the nature and purpose of its possession must also be considered with the remaining evidence.

8. The Sessions Court had declined bail principally on account of the alleged diversion of medicines and the apprehension that the Applicant might assist the untraced purchaser, Rajan, or resume similar activities. These concerns cannot be dismissed lightly. However, the allegation of diversion remains to be proved, and the non-apprehension of another suspected purchaser does not, by itself, justify the Applicant's continued detention. The investigation against the Applicant is complete, and the apprehensions expressed by the State can reasonably be addressed through appropriate conditions.

9. The Applicant is approximately 55 years of age and has undergone nearly four months of custody. The nominal roll records that his jail conduct is satisfactory. While one previous criminal involvement is recorded, he has no previous convictions.

10. On an overall consideration of these circumstances, this Court is of the opinion that the Applicant's continued incarceration is not warranted pending trial. Accordingly, the application is allowed. The Applicant is

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directed to be released on regular bail upon furnishing a personal bond of ₹25,000/- with one surety of the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(i) The Applicant shall appear before the Trial Court on every date of hearing, unless exempted.

(ii) He shall furnish his current residential address and mobile number to the Investigating Officer and the Trial Court, and shall intimate any change immediately. His residential particulars shall be duly verified.

(iii) He shall not directly or indirectly contact, threaten or influence any prosecution witness, or otherwise interfere with the evidence.

(iv) He shall not engage in the unlawful procurement, sale or distribution of psychotropic substances, including any diversion of medicines prescribed or dispensed for his personal treatment.

(v) He shall not leave India without prior permission of the Trial Court.

In the event of any misuse of liberty or breach of these conditions, the State shall be at liberty to seek cancellation of bail.

11. The observations made herein are confined to the consideration of bail and shall have no bearing on the merits of the case at trial.

12. The application stands disposed of.

SANJEEV NARULA, J

OCTOBER 29, 2026
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