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

\# **CNR No. DLHC010548152026**

\+ BAIL APPLN. 4886/2026, CRL.M.A. 35552/2026 & CRL.M.A. 35553/2026

AADIL HUSSAIN .....Petitioner

Through: Mr. Rohit Labh, Ms. Anjali Labh, Advocates.

versus

STATE NCT OF DELHI THROUGH SHO P.S. CRIME BRANCH WEST .....Respondent

Through: Mr. Tarang Srivastav, APP for the State with SI Guman Singh, PS WR-I, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 18.11.2026

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] seeks regular bail in FIR No. 120/2026, registered at P.S. Crime Branch, Delhi, for offences under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985[2]. The Applicant has been in custody since 7th May, 2026. His second application for regular bail was dismissed by the ASJ/Special Judge (NDPS), West District, Tis Hazari Courts, Delhi, on 31st October, 2026.

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

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2. The prosecution case originates from tip off received by SI Guman Singh on 7th May, 2026, concerning the alleged supply of heroin near Tagore Garden Metro Station. According to the FIR, the information was reduced into writing and communicated to the superior officers, whereafter a raiding team was constituted. At approximately 9:10 PM, the Applicant and another person, described in the proceedings as a Child in Conflict with Law[3], were intercepted while travelling on a Honda Activa. Upon search, a pinkish-brown substance, suspected to be heroin, was allegedly recovered from the Applicant's clothing. Its weight was initially recorded as 255 grams. The FSL Crime Team, which subsequently attended the spot, recorded its weight as 254 grams. A separate quantity of approximately 105-106 grams was recovered from the CCL. The substances reportedly tested positive for heroin on preliminary testing.

3. During investigation, Naushad was identified as the alleged source of the contraband on the basis of disclosure statements. He was subsequently arrested, and a further quantity of 28 grams of heroin was allegedly recovered from his residence. The chargesheet has since been filed.

4. Counsel for the Applicant submits that the recovery attributed to him is barely above the notified commercial quantity of 250 grams. It is pointed out that the FIR itself records that the substance was weighed along with two polythene wrappers and that the substance appeared moist. The net weight of the contraband, excluding the packaging, has not been separately recorded. Counsel also relies upon the difference between the initial weighment of 255 grams and the subsequent figure of 254 grams, and contends that the actual quantity may fall below the commercial-quantity

[3] "CCL"

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threshold. The absence of independent public witnesses, the interval between apprehension and registration of the FIR, and alleged deficiencies in the search and seizure proceedings are also pressed into service.

5. Counsel further submits that Naushad, whom the prosecution identifies as the supplier, was granted bail by the Special Judge on 17th September, 2026. It is urged that the Applicant deserves similar treatment, particularly when the investigation is complete and the chargesheet has been filed. Reliance is placed upon ***Sunny v. State (NCT of Delhi)***,[4] concerning a recovery marginally above the commercial-quantity threshold. Counsel emphasises that the Applicant is 22 years old, has no criminal antecedents and has remained in custody for over six months.

6. The APP for State opposes the application. According to him, the Applicant was apprehended pursuant to specific information and the contraband was recovered directly from his possession. The recovery, as recorded by the investigating agency, falls within the commercial-quantity category, attracting the restrictions under Section 37 of the NDPS Act. The State further relies upon the circumstances in which the Applicant and the CCL were intercepted together, and submits that their alleged involvement in the supply of narcotic substances attracts Section 29 of the Act.

7. Having considered the submissions and the material placed on record, the Court finds that the principal allegation against the Applicant is one of direct recovery. This is material when examining his claim for bail. The FIR attributes a distinct recovery to the Applicant following his search. The prosecution, therefore, does not depend solely upon a disclosure statement or upon contraband recovered from another accused to connect him with the

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offence.

8. The Applicant's principal objection concerns the quantity of contraband allegedly recovered from him. It is submitted that the substance, initially weighing 255 grams and subsequently recorded as 254 grams by the FSL Crime Team at the spot, was weighed along with two polythene wrappers. According to the Applicant, exclusion of the packaging could bring the actual quantity below the prescribed commercial-quantity threshold of 250 grams. This submission, however, proceeds on the assumption that the recovery attributed to the Applicant must be considered in isolation. The prosecution case is not confined to that recovery. The Applicant was apprehended while travelling on a scooter with the CCL, from whom another 105 grams of heroin was allegedly recovered.

9. The question whether recoveries from different accused can be aggregated at the stage of bail has been considered by this Court in ***Awadhesh Yadav v. State (Govt. of NCT of Delhi)***[5], ***Vikas Yadav v. State (Govt. NCT of Delhi)***[6], and ***Arjun Sarkar v. State (NCT of Delhi)***[7]. These decisions recognise that where the material indicates concerted activity amounting to an offence under Section 29 of the NDPS Act, the quantities recovered from the accused acting together may be aggregated for determining the applicability of Section 37. In particular, *Awadhesh Yadav* recognises that where persons travelling together in a private vehicle are individually carrying contraband, their recoveries may be considered collectively. The mere invocation of Section 29 is, however, insufficient.

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[4] BAIL APPLN. 2008/2026, decided on 7th October, 2026
[5] 2023 SCC OnLine Del 7732
[6] BAIL APPLN. 2679/2025, decided on 27th August, 2025
[7] 2025 SCC OnLine Del 2855

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There must be material supporting the allegation of a common unlawful enterprise.

10. In the present case, the prosecution relies upon circumstances extending beyond the Applicant and CCL merely travelling together. The secret information specifically identified both persons and indicated that they would arrive on a white Honda Activa scooter to deliver heroin near Tagore Garden Metro Station. The raiding team subsequently intercepted them together at the disclosed location, and separate quantities of heroin were allegedly recovered from both. The advance information, their joint arrival and the simultaneous recoveries provide a factual basis for the allegation that they were acting in concert. At this stage, these circumstances cannot be dismissed as establishing no more than an incidental association between the two.

11. The combined quantity recorded by the FSL Crime Team at the spot was 359 grams, comprising 254 grams attributed to the Applicant and 105 grams to the CCL. Even accepting that the weight of the external packaging must be excluded, the objection concerning the marginal excess of four grams in the Applicant's individual recovery loses much of its force when the recoveries are considered together. The aggregate recorded weight exceeds the commercial-quantity threshold by 109 grams. The precise net weight and the reliability of the seizure proceedings remain matters for trial. For the purpose of the present application, however, there is sufficient material to consider the two recoveries collectively, bringing the alleged offence within the commercial-quantity category.

12. The other objections concerning the absence of independent witnesses, the interval between apprehension and registration of the FIR,

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and the alleged irregularities in the search and seizure proceedings have also been considered. The FIR records attempts to associate members of the public with the proceedings, though none agreed to participate. It also refers to photography and videography of the seizure proceedings. The defence is entitled to question the adequacy of these measures and the reliability of the official witnesses at trial. On the material presently available, however, these objections do not furnish sufficient grounds to reject the alleged recoveries or the circumstances in which the Applicant and CCL were apprehended.

13. The Applicant's reliance upon the grant of bail to Naushad also does not advance his case. The order dated 17th September, 2026, records that 28 grams of heroin were recovered from Naushad's residence and that his alleged role as supplier was founded upon the disclosure statements of the co-accused, without independent evidence of any transaction or supply. The present Applicant, on the other hand, was allegedly apprehended while transporting heroin along with another person who was also carrying contraband. The nature of the material against them is materially different.

14. The Court is consequently unable to record the satisfaction required under Section 37(1)(b)(ii) of the NDPS Act.

15. Accordingly, the application is dismissed. Pending applications also stand disposed of.

SANJEEV NARULA, J

NOVEMBER 18, 2026/ab

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