



\$~61

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

+ **BAIL APPLN. 3274/2025**

AZAM SAIFI

.....Petitioner

Through: Mr. Sunil Kumar Mehta and Mr.
Praveen Kumar Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

13.03.2026

%

1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing No.270/2024, registered at Police Station Crime Branch, Delhi, for the commission of offences punishable under Sections 22/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'NDPS').

2. Brief facts of the present case are that on 25.12.2024, acting upon secret information, co-accused persons, namely Samaludden @ Sadik, Salman, Mohd. Gulzar were apprehended from Industrial Area, Bawana. From their possession, 9000 bottles of Codeine-based syrup and 1,80,000 Alprazolam tablets were recovered, pursuant to which the present FIR was registered. During the course of the investigation, a premises situated at N-176, Bawana Industrial Area was identified, which was allegedly being used



for the preparation of banned medicines. On 26.12.2024, at the instance of the co-accused persons, raw material used for manufacturing the banned medicines, along with packaging material, machines, and chemicals, was recovered from the said premises. During further investigation, on 14.01.2025, on the basis of the disclosure statement of the co-accused Samaludden@Sadik, and after developing the information on the basis of secret information, applicant Azam Saifi was apprehended from Loni, Ghaziabad, and 32,880 Tramadol capsules were recovered from his possession.

3. The learned counsel appearing for the applicant argues that the applicant has been falsely implicated in the present case, and he has been in judicial custody since 14.01.2025. It is argued that although co-accused Samaludden @ Sadik has disclosed that Codeine-based syrup was exchanged between him and the applicant, no recovery of the said substance has been effected from the applicant. It is further contended that the provisions of Sections 41 and 42 of the NDPS Act were not complied with by the officials at the time of arrest of the applicant. Therefore, it is prayed that the applicant be enlarged on regular bail.

4. *Per contra*, the learned APP for the State vehemently opposes the grant of bail to the applicant. It is argued that the applicant was apprehended in possession of 32,880 Tramadol tablets, which falls within the commercial quantity. It is further argued that the bar under Section 37 of the NDPS Act is attracted and, therefore, the applicant is not entitled to bail. It is also argued that the co-accused Samaludden @ Sadik has disclosed that narcotic and psychotropic substances were exchanged between him and the applicant. Further, on the instructions of the IO, it is argued that the FSL



report with respect to the psychotropic substance recovered from the applicant has returned positive for narcotic and psychotropic substances. Accordingly, it is prayed that the applicant be not enlarged on bail.

5. This Court has **heard** the arguments addressed by the learned counsel for the applicant and the learned APP for the state and has perused the material on record.

6. The allegations against the applicant are that he is part of a syndicate involved in the sale of narcotic and psychotropic substances. It is further pertinent to note that co-accused Samaludden has disclosed that he used to supply Codeine-based syrup to the applicant. As per his disclosure statement, the applicant used to procure Codeine-based syrup from Samaludden @ Sadik @ Sandeep Saini and also used to supply narcotic medicines to him.

7. It is noted that the primary contentions of the learned counsel for the applicant are that Section 41 and 42 of the NDPS Act have not been complied while arresting the applicant. In this regard, this Court is of the view that any irregularity or non-compliance of Sections 41 and 42 of the NDPS Act by the Investigating Officer is a matter of trial and bail cannot be sought solely on the said ground. This court in ***Gurjeet Singh v. State of NCT of Delhi: Bail application no. 2209/2022***, dated 07.09.2022 has held that:

“7. The affect of non-compliance, if any, of any mandatory provision by the Investigating Officer, any irregularity or illegality committed at the time of making of the seizure memo, etc. pointed out painstakingly by the learned counsel is also essentially a matter of trial and cannot be looked into in detail at this stage for grant of



bail unless there is any glaring irregularity which will make the seizure itself illegal.”

8. Further, a Coordinate Bench of this Court in ***Hardeep Singh v. The State: Bail Application No. 3582/2021***, decided on 18.11.2022, has held that non-compliance of Section 41 of the NDPS Act cannot, by itself, be a ground to grant bail, and that the rigours of Section 37 of the NDPS Act must still be satisfied. The relevant observations of the Court are reproduced below:

“40. The submission made by learned counsel for the applicant to the effect that there has been procedural aberration in compliance of the section 41 (2) NDPS Act, is of no consequence. The non-compliance of Section 41 will not absolve the accused from the rigours of Section 37 of the NDPS Act.

41. There is a bar imposed by section 37 which cannot be ignored or superceded by a prima facie non-compliance of the discretionary provision i.e., section 41....”

9. Further, it is pertinent to note that the applicant was found in possession of 32,880 Tramadol tablets, which constitutes a *commercial quantity*; therefore, the bar under Section 37 of the NDPS Act would be attracted.

10. The Hon'ble Supreme Court in ***Narcotics Control Bureau v. Mohit Aggarwal: 2022 SCC Online SC 891***, while explaining the meaning of “reasonable grounds” under Section 37(1)(b) of NDPS Act, has held as under:

“14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean



credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.”

11. Further, the learned APP for the State, on the instructions from the IO, submits that the Tramadol tablets recovered from the applicant were sent to the FSL for examination, and the FSL report has returned positive finding for the said psychotropic substance.
12. Considering the overall facts and circumstances of the present case, particularly that the applicant was in possession of *commercial quantity* of Taramdol tablets, this Court is *not inclined to grant regular bail* to the applicant at this stage, as the twin conditions under Section 37 of the NDPS Act are not *prima facie* satisfied .
13. The bail application is accordingly dismissed.
14. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.
15. The order be uploaded on the website forthwith.

Dr. SWARANA KANTA SHARMA, J

MARCH 13, 2026/RB