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

+ **BAIL APPLN. 3928/2025**

SIYARAM

.....Applicant

Through: Mr Javed Khan, Advocate.

Versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP for the
State with Ms. Vanshika Singh and
Ms. Divya Bakshi, Advocates.
ASI Rajesh Rana, PS-Special Cell

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

07.02.2026

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1. By virtue of the present application under *Section 483* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks grant of regular bail in proceedings arising out of FIR No.287/2023 dated 03.12.2023 registered at PS: Special Cell under *Sections 21/29* of the Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS Act**).

2. As per FIR, on 03.12.2023 at around 07:30 AM, a special informant came to the Special Cell, Janakpuri, Delhi and revealed that a person namely Siyaram/ applicant herein would be coming to Kashmiri Gate and Sarai Kale Khan in a private bus between 9 AM to 11 AM carrying a huge quantity of narcotics prohibited under the NDPS Act. The said information was reduced to writing *vide* DD No.1A, and upon instructions of the ACP, a raiding team was constituted which reached near Akshardham Metro

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Station at around 10:30 AM. Around 11:15 AM, two men alighted from a private bus near Akshardham Metro Station Bus Stand, each carrying a black sling bag, who were recognised by the informant and subsequently apprehended by the raiding team. The applicant and his companion Dinesh were identified and notices under *Section 50* NDPS Act were served upon them. Since they declined to be taken to the nearest Magistrate or Gazetted Officer, the nearest Gazetted Officer, ACP, Mayur Vihar, was summoned to the spot, who arrived at around 01:20 PM, and in his presence, the applicant and his companion Dinesh were searched.

3. Upon search, though no illegal items were found on their person, however, inside the applicant's sling bag, a black secret cavity was discovered wherein there was a black polythene containing two pouches with a sticky brown coloured substance emanating a pungent smell. On testing, the same was found to be 1476g and 1172g of opium. Similarly, 759g of opium was also discovered from a secret cavity in the bag carried by the applicant's companion Dinesh as well. The present FIR was accordingly registered under *Sections 21/29* NDPS Act against the applicant and his companion Dinesh, and they were arrested on the same date. The chargesheet has also subsequently been filed.

4. In the present application, it is primarily the case of the applicant that since no written communication was made to him informing him of the grounds of his arrest, the arrest of the applicant is *per se* illegal. The same, as per the applicant, is in clear contravention of the constitutional safeguard under *Article 22* of the Constitution of India, as held by the Hon'ble Supreme Court in ***Pankaj Bansal vs. Union of India & Ors.:2023 SCC OnLine SC 1244*** as well as subsequently in ***Prabir***



Purkayastha vs. State (NCT of Delhi):(2024) 8 SCC 254. Learned counsel for the applicant has also placed reliance upon order dated 14.10.2025 passed by the Hon'ble Supreme Court in Crl. A. No.4505/2025 entitled '***Ahmed Mansoor & Ors. vs. The State***' as well as the decision of a Co-ordinate Bench of this Court in ***Naveen Handa vs. Central Bureau of Narcotics:2025:DHC:6090*** and the recent decision of this Court in ***Lokesh Alias Manish vs. State:2026:DHC:509***.

5. On merits, learned counsel submits that since the quantity allegedly recovered from the applicant is only marginally above the commercial quantity (*only about 200g*), the bar under *Section 37* is not *per se* applicable. For this, he relies upon the decision of a Co-ordinate Bench of this Court in ***Vinay Sharma vs. State of Govt. of NCT of Delhi:2025:DHC:6358*** as well as the decision of a learned Single Judge of the High Court of Punjab and Haryana at Chandigarh in ***Gurprabh Singh @ Prince vs. State of Punjab:2025:PHHC:27809***.

6. Learned counsel lastly submits that the applicant is a 60-year-old man who has already faced incarceration for a period of nearly two years, and out of 35 witnesses, not even a single witness has been examined till date. Further, the applicant has clean antecedents, and a fair case for grant of bail is made out.

7. Notice was issued and the Status Report was called for and Nominal Roll was also requisitioned from the concerned Jail Authorities.

8. Learned APP for the State opposes the present application primarily on the ground of the twin conditions of *Section 37* NDPS Act, since the total quantity of opium recovered from the applicant falls under '*commercial quantity*' as per NDPS Act, and a *prima facie* case against



him is clearly made out as per the facts. Learned APP submits that large sums of money have been exchanged between the applicant and one Guman Linda, who is the source of the opium, thus showing the scale of dealing of the contraband, submits that in view of *Section 37 NDPS Act*, this is not a fit case for release of the applicant.

9. This Court has heard the learned counsel for the applicant as well as the learned APP for the State and perused the documents on record.

10. Since the primary issue pertains to the (non-)communication of the grounds of arrest to the applicant, *Article 22* of the Constitution of India is of utmost significance herein.

11. As per *Article 21* of the Constitution of India, *no person shall be deprived of his life or personal liberty except in accordance with law*. However, as per *Article 22* of the Constitution of India, an arrestee has to, *as soon as may be, informed of the grounds of his arrest*. Thus, not doing so shall mean deprivation of personal liberty of the arrestee.

12. The above has consistently been held to be the correct legal position in a plethora of cases by the Hon'ble Supreme Court, including in ***Pankaj Bansal (supra)*** decided on 03.10.2023, followed, reiterated and reinforced in ***Prabir Purkayastha (supra)***. Not only a clear distinction between 'grounds of arrest' and 'reasons of arrest' has been drawn therein, it has also been held that irrespective of the Statute involved, non-furnishing of grounds of arrest to an arrestee in writing would tantamount to infringement of his fundamental right under *Article 22(1)* of the Constitution of India. The same was held as vital in order to enable such an arrestee to seek legal recourse to appropriate remedies, including but not limited to, defending oneself.



13. Hence, when the applicant herein was arrested on 03.12.2023, it was his fundamental right to be informed of the grounds of his arrest in writing in a language which he understood. However, *admittedly* a perusal of the Arrest Memo dated 03.12.2023 reveals that no such communication in writing was made to him as there is no '**Grounds of Arrest**', and, in fact, a simple blank against the '**Reasons of Arrest**' therein. This being vital, leaves no manner of doubt that the constitutional mandate under *Article 22(1)* of the Constitution of India has not been observed.

14. In such a scenario, the aforesaid is sufficient for grant of regular bail to the applicant. As such, this Court need not dwell into the other aspects, at this stage.

15. In fact, following the above dictate of the Hon'ble Supreme Court, this Court has recently, while dealing with similar issues of non-supply of grounds of arrest in writing to an arrestee and the violation of *Article 22(1)* of the Constitution of India, granted bail in **Lokesh Alias Manish (supra)** as well.

16. Accordingly, the applicant is granted regular bail in proceedings arising out of FIR No.287/2023 dated 03.12.2023 registered at PS: Special Cell under *Sections 21/29 NDPS Act*. The applicant be released subject to him furnishing a personal bond in the sum of Rs.50,000/- (*Rupees Fifty Thousand Only*) alongwith one surety of the like amount by a family member/friend having no criminal case pending against him and further subject to satisfaction of the learned Trial Court and yet further subject to the following conditions:-

- a. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall ordinarily



reside at the address as per the Trial Court Record. If he so wishes to change his residential address, he shall immediately intimate about the same to the I.O. by way of an affidavit.

b. Applicant shall surrender his Passport to the I.O., within three days. If he does not possess the same, he shall file an affidavit before the I.O. to that effect within the stipulated time.

c. Applicant shall appear before the Court as and when the matter is taken up for hearing.

d. Applicant shall join investigation as and when called by the I.O. concerned without obstructing an/ or hampering with the police investigation and/ or the evidence collected or yet to be collected by the Police.

e. Applicant shall provide all his mobile numbers to the I.O. concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the I.O. concerned. The mobile location be kept on at all times.

f. Applicant shall report to the I.O. at PS: Special Cell, once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.

g. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case or try to dissuade the witnesses from disclosing such facts to the Court or to any Police Officer(s)/ Official(s).



17. Accordingly, the present application is allowed and disposed of in the aforesaid terms.

18. Copy of this order be sent to the concerned Trial Court for necessary information and compliance thereof.

19. Needless to say, observations made hereinabove, if any, on the merits of the matter are purely for the purposes of adjudicating the present application and shall not be construed as expressions on the merits therein.

SAURABH BANERJEE, J

FEBRUARY 7, 2026
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