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

+ **BAIL APPLN. 4276/2025 and CRL.M.A. No. 7619/2026**

**RANJEET**

.....Petitioner

Through: Mr. Durgesh Singh, Mr. Nityanand  
Singh and Mr. Rahul Sharma,  
Advocates

versus

**STATE OF NCT OF DELHI**

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP  
for State with SI Sohan Thakur,  
Anti-Narcotics Cell

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

% **04.05.2026**

1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks regular bail in connection with FIR No. 174/2024, dated 29.02.2024, registered at Police Station Narela, Delhi, under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [“the NDPS Act”].

2. I have heard Mr. Durgesh Singh, learned counsel for the petitioner, and Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor for the State. The prosecution has also placed on record a status report dated 13.02.2026.

3. The facts, as emerging from the material on record, are as follows:

A. A secret information was received, to the effect that the petitioner and co-accused Amit were involved in the supply of heroin, and would go by an e-rikshaw to deliver a consignment of heroin to a customer near Raja Harish Chandra Hospital, Narela, Delhi, on 29.02.2024, between 2:00 PM and 3:00 PM.



- B. In view of the aforesaid information, a raiding team was constituted and an e-rickshaw in which the petitioner and Amit were travelling was stopped. The petitioner was sitting in the back and co-accused Amit was driving the e-rickshaw.
- C. Upon search of the petitioner, a black polythene packet was recovered from his pocket. Upon checking the black polythene packet, a transparent polythene packet containing light brown powdery substance was found. It tested positive for heroin and was weighed at 300 grams. The substance was seized, and the case was registered on the same date.
- D. The petitioner and Amit were arrested on the same day, i.e. 29.02.2024.
- E. Upon interrogation, they disclosed that they procured the recovered heroin from one Jakir, for supply to a woman identified as “Amma”.
- F. During investigation, at the instance of the petitioner and Amit, one Sahida was arrested on 02.03.2024, and a recovery of 30 grams of heroin was effected from her possession at her residence. Upon her interrogation, she identified the petitioner as the person who supplied heroin to her.
- G. A chargesheet was filed against the petitioner, Amit and Sahida. There are two other co-accused, but their investigation was not completed, as they were not traceable. Section 82 CrPC proceedings have been initiated against them.
4. Mr. Singh submits that the alleged search and seizure of the narcotics is unreliable, as no public witness was associated with it, and



there is no photograph/videography. He relies upon the judgment of this Court in *Bantu v. State Govt. of NCT of Delhi*<sup>1</sup> to submit that the benefit of doubt must, in these circumstances, be granted to the accused.

5. Mr. Singh further submits that the petitioner has been in custody for a period of over two years, and only seven prosecution witnesses out of 22 have been examined. He relies upon the judgments of the Supreme Court in *Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India and Others*<sup>2</sup>, *Jitendra Jain v. Narcotics Control Bureau & Anr.*<sup>3</sup>, *Dheeraj Kumar Shukla v. State of U.P.*<sup>4</sup> and *Rabi Prakash v. State of Odisha*<sup>5??</sup> to submit that, prolonged pre-trial incarceration is inconsistent with the constitutional guarantee to life and liberty under Article 21 of the Constitution. Mr. Singh also claims parity with co-accused Amit, who was granted bail by this Court vide order dated 23.03.2026 in BAIL APPLN. 4376/2025.

6. Mr. Chauhan, on the other hand, states that the present offence concerns recovery of a commercial quantity of heroin [above 250 grams], as 300 grams was recovered from the petitioner, and 30 grams was recovered from co-accused Sahida. Mr. Chauhan submits that in the present case, the recovery was, in fact, directly from the person of the petitioner, and thus the twin conditions under Section 37 of the NDPS Act have not been satisfied. Mr. Chauhan also distinguishes the case of co-accused Amit, as no recovery was made from him. As far as the photography/videography of seizure is concerned, he submits that these

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<sup>1</sup> 2024 SCC OnLine Del 4671 [hereinafter, “*Bantu*”].

<sup>2</sup> (1994) 6 SCC 731.

<sup>3</sup> SLP (Crl.) No. 8900/2022, decided on 16.12.2022.

<sup>4</sup> SLP (Crl.) No. 6690/2022, decided on 25.01.2023.



are a matter of trial, and ought not to be looked into at this stage.

7. At the very outset, it is noted that the present case is one of recovery of commercial quantity of a contraband, and the twin conditions under Section 37 of the NDPS Act would therefore be applicable. However, the search and seizure, pursuant to which the prosecution claims to have recovered 300 grams of heroin was carried out at approximately 2:45 PM, at a location near a hospital. The prosecution was unable to secure the assistance of public witnesses, and the proceedings were also not photographed/videographed. In *Bantu*, this Court has emphasized that in the absence of public witnesses, and photography/videography of the search proceedings, the integrity of seizure remains a matter of trial, but benefit of doubt is to be granted to the accused at the stage of bail. The aforesaid observation in *Bantu* has also been reiterated in *Sunday Okeke Ugwuoke v. State of NCT of Delhi*<sup>6</sup>, in which a coordinate Bench has held as follows:

*“16. It is the case of the prosecution that the said raid was conducted during daylight hours i.e. around 05.00 - 05.30 P.M. in a public place. Despite this, no public witnesses have joined nor any cogent explanation has been offered for the same. **While the absence of independent witnesses may not be fatal to the case of the prosecution, it impacts the transparency and reliability of the search and seizure process, particularly at the stage of bail, where the Court must assess whether a prima facie case has been made out against the accused.** Reference in this regard may be had to the decision of the Coordinate Bench of this Court in *Beneth Chukuwuddi (supra)* as well as *Bantu v. State Government of NCT of Delhi*. Likewise, Hon’ble Supreme Court in *Shafhi Mohd. v. State of H.P.*<sup>7</sup> has also emphasised that the video or photographic documentation of a crime scene, serves as a critical safeguard, ensuring transparency and accountability in the handling of evidence, which is evidently missing in the present case.*

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<sup>5</sup> SLP (CrL.) No. 4169/2023, decided on 13.07.2023 [hereinafter, “Rabi Prakash”].

<sup>6</sup> BAIL APPLN. 1939/2025, decided on 02.12.2025 [“*Sunday Okeke*”].

<sup>7</sup> 2018) 5 SCC 311.



The following observations from **Beneth Chukuwuddi (supra)** could beneficially be referred to:

“8. It is to be noted that the raiding party, acting on information received on 10th March, 2023, had sufficient time to secure independent witnesses before conducting the raid. However, no reasonable explanation has been provided for this omission. Since the alleged recovery took place in a public area, where securing independent witnesses would not have posed any practical difficulty, this lapse reflects a lack of diligence on the part of the investigating agency. **While the absence of independent witnesses may not be fatal to the prosecution’s case per se, it does impact the transparency and reliability of the search and seizure process, particularly at the bail stage, where the Court must assess whether a prima facie case has been made out against the accused.**

9. This Court in **Bantu v. State Government of NCT of Delhi**, took note of the frequent and mechanical explanations offered for the non-joinder of independent witnesses in cases involving the seizure of contraband. **It was observed that the absence of independent witnesses, especially in crowded public places, warrants careful judicial scrutiny. This practice undermines the transparency of the seizure procedure and weakens the evidentiary value of the recovery. In the present case, the failure to associate independent witnesses, despite the raid occurring in a public location, indicates a lapse in the search process. While such lapses do not, by themselves, render the recovery invalid, they diminish the evidentiary value of the seizure and introduce reasonable doubt about the integrity of the prosecution’s case, which becomes particularly relevant in cases under the NDPS Act, where strict compliance with procedural safeguards is imperative given the severe consequences involved.**

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11. The Supreme Court, in the case of **Shafhi Mohd. v. State of H.P.**<sup>8</sup> emphasised that the video or photographic documentation of a crime scene, serves as a critical safeguard, ensuring transparency and accountability in the handling of evidence. Further, in **Bantu**, this Court observed that in instances where videography or photography has not been undertaken, the prosecution can provide clear and valid justifications for such omissions. These judicial observations were made even prior to the enactment of the mandatory videography and photography requirements under the BNSS, illustrating that the Court has recognized the vital role of such documentation in ensuring the fair administration of justice.



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**19. Additionally, it is pertinent to note that the Applicant has been in custody for 2 years. Although the chargesheet has been filed, the charges are yet to be framed and there is no indication that the trial will conclude in the foreseeable future.**

**20. The right to life and personal liberty, enshrined under Article 21 of the Constitution of India, 1950, cannot be rendered nugatory by unwarranted delays in the judicial process. The prolonged incarceration undermines the fundamental right to personal liberty. The extended period of custody, combined with the delay in trial, justifies the Applicant's plea for conditional liberty through the grant of bail, thereby balancing the rights of the accused with the requirements of justice."**

*(emphasis supplied)*<sup>8</sup>

8. Like the present case, these judgments concern cases in which the search and seizure was conducted prior to the BNSS coming into force.

9. This aspect assumes particular significance in the backdrop of the period of pre-trial incarceration already undergone by the petitioner. The Supreme Court has emphasized in several cases, cited above, that prolonged custody of an accused with little likelihood of expeditious conclusion of the proceedings is anathema to the constitutional scheme. In some judgments, including *Rabi Prakash*, the Court has held that Section 37 of the NDPS Act would, in these circumstances, not come in the way.

10. However, even at the threshold of Section 37 NDPS Act, the Court's assessment is required to be a *prima facie* assessment at this stage, and the Court is not required to come to a conclusion beyond reasonable doubt. Reference in this connection, is made to the

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<sup>8</sup> Emphasis supplied.



judgment in *Mohd. Muslim v. State (NCT of Delhi)*<sup>9</sup>. On a holistic consideration of the facts of the case, including the lack of photography/videography of the search and seizure, and public witnesses, as highlighted in *Bantu*, I am of the view that the petitioner has crossed the required *prima facie* threshold for grant of bail.

11. According to Mr. Chauhan, there are 22 witnesses, out of which only seven witnesses have been examined. Trial is therefore likely to take some time.

12. While I have come to the conclusion that the petitioner is entitled to the bail on the aforesaid grounds, I am of the view that the ground of parity urged by the Mr. Singh does not come to his aid. In the judgment in the case of co-accused Amit, it was specifically noted that no recovery was made from him, the petitioner's case is therefore distinct.

13. For the aforesaid reasons, it is directed that petitioner be released on regular bail in connection with the FIR No. 174/2024 dated 29.02.2024, registered at Police Station Narela, Delhi, under Sections 21/25/29 of the NDPS Act, upon furnishing a bail bond in the sum of Rs. 25,000/-, with one surety of the like amount, to the satisfaction of the Trial Court/Duty Magistrate, and further subject to the following conditions:

- a. The petitioner shall appear before the concerned Trial Court on each and every date of hearing fixed.
- b. If the petitioner has a passport, he shall surrender the same to the concerned Trial Court, and shall not leave the country without the prior permission of the concerned Trial Court.

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<sup>9</sup> (2023) 18 SCC 166.



c. The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned Investigating Officer [“IO”]/ Station House Officer [“SHO”].

d. The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO.

e. The petitioner shall not, directly or indirectly, contact, nor visit, nor offer any inducement, threat, or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case.

f. The petitioner shall not, directly or indirectly, tamper with evidence nor otherwise indulge in any act or omission that would prejudice the proceedings in the pending trial.

g. The petitioner shall not commit any offence during the pendency of the proceedings.

14. The bail application is disposed of in terms of the above.

15. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application, and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.

**PRATEEK JALAN, J**

**MAY 4, 2026/‘sv’/AD/**