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

+ BAIL APPLN. 4376/2025
AMIT

.....Petitioner

Through: Mr. S.K. Bhatt, Advocate.

versus

STATE OF GOVERNMENT OF NCT OF DELHIRespondent

Through: Mr. Yudhvair Singh Chauhan, APP.
SI Sohan Thakur.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
23.03.2026

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1. By way of the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks grant of bail in connection with FIR No. 174/2024 dated 29.02.2024, registered at Police Station Narela, District Outer North, New Delhi, under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [“the NDPS Act”].
2. I have heard Mr. S.K. Bhatt, learned counsel for the applicant, and Mr. Yudhvair Singh Chauhan, learned Additional Public Prosecutor for the State.
3. The prosecution has also placed on record a status report dated 07.03.2026.
4. The case of the prosecution, as stated in the status report, is that, on the basis of secret information, an e-rickshaw bearing No. DL-10ER-



4686 was intercepted on 29.02.2024 at about 02:35 PM, at a location near Raja Harish Chandra Hospital, Narela, Delhi. The applicant herein was driving the e-rickshaw, and one Ranjeet [co-accused] was sitting in the rear seat. After complying with the mandatory provisions of law, a search was conducted of both accused persons. A black-coloured polyethene packet containing light brown powder was recovered from the pocket of co-accused Ranjeet, which was found to be heroin upon testing with a field-testing kit. The weight of the recovered substance was found to be 300 grams. The heroin was sealed and seized, and the e-rickshaw was also seized.

5. It is also alleged that, in the course of investigation, it was revealed, in the disclosure statements of the applicant and co-accused Ranjeet, that the heroin was supplied by one Jakir and was to be supplied to a woman referred to as 'Amma'. During further investigation, one Sahida was also arrested on 02.03.2024, and 30 grams of heroin were recovered from her possession at her residence.

6. In support of the present bail application, Mr. Bhatt submits that the applicant has already been in judicial custody for a period of over two years, in a case where there was no recovery from his personal possession. The applicant was only driving the e-rickshaw in which co-accused Ranjeet was travelling, from whom recovery of the contraband has been effected.

7. Mr. Bhatt also submits, relying upon a birth certificate issued by the Municipal Corporation of Delhi bearing registration No. MCDOLIR-0112-005205844, that the applicant's date of birth is 13.02.2007, and, therefore, on the date of the alleged offence, he was 17 years and 16 days



of age. He submits that the applicant should, therefore, have been apprehended and proceeded against as a Child in Conflict with Law [“CCL”].

8. Mr. Chauhan, on the other hand, submits that the present offence concerns recovery of a commercial quantity of heroin [above 250 grams], as 300 grams was recovered from co-accused Ranjeet, and 30 grams was recovered thereafter from co-accused Sahida. It is submitted that the material against the applicant includes Call Detail Records, which show frequent contact with co-accused Ranjeet. Mr. Chauhan has also drawn my attention to the disclosure statement of the applicant and Ranjeet to contend that the two were known to each other and that Ranjeet was, in fact, recruited into drug trafficking by the applicant herein.

9. As far as the age of the applicant is concerned, Mr. Chauhan submits that the Investigating Officer has obtained a date of birth certificate from the applicant’s school, M.C. Primary Boys School, B2-II, JJ Colony, Bawana, Delhi – 110039, which certifies his date of birth as 13.02.2006. The document has been referred to in the status report, and a copy from the police file has been handed up in Court and is taken on record.

10. Turning first to the question of whether the applicant is liable to be treated as a CCL, Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 [“the JJ Act”], provides for the hierarchy of documents which may be considered to determine the age of a person. Section 94(2) provides that the first document to be considered is the date of birth certificate issued by the school attended by the concerned person, and it is only in the absence of such a document, that reliance can be



placed upon the birth certificate issued by a municipal authority.

11. At the present stage, therefore, when the Court is not undertaking a trial, but is only looking at the *prima facie* material on record, I am of the view that the date of birth mentioned in the certificate issued by the school attended by the applicant must be taken to be correct. Proceeding on this basis, the applicant's date of birth is 13.02.2006, and he had, therefore, attained the age of 18 years before the date of the aforesaid arrest, i.e. 29.02.2024.

12. With regard to the merits of the matter, I am conscious of the fact that the recovery is of a commercial quantity of contraband, which attracts the rigorous of Section 37 of the NDPS Act. However, it is clear from the judgment of the Supreme Court in *Mohd. Muslim v. State (NCT of Delhi)*¹ that the satisfaction in terms of Section 37 of the NDPS Act is required to be undertaken on a *prima facie* basis, and the Court is not expected to draw a conclusion beyond reasonable doubt at this stage.

13. Analyzing the facts of the present case on this basis, it is evident that, although the applicant was driving the e-rickshaw in which co-accused Ranjeet was travelling, the admitted position is that there was no actual recovery from the applicant, but only from the pocket of Ranjeet. The question of whether the applicant is liable would turn upon whether conscious possession of the contraband substance can be attributed to him. While this issue would have to be determined at trial, there is no *prima facie* material on the basis of which this inference can be drawn at this stage. The disclosure statements also do not appear to be supported by any corroborative material at this stage. The existence of telephone



connectivity between the parties is also, in my view, inconclusive at this stage, as, there are no transcripts or other material, which could throw light upon the nature of the conversations.

14. Further, several judgments of the Supreme Court establish that prolonged incarceration and delay in trial, even in cases to which Section 37 of the NDPS Act or similar twin conditions are applicable, is inconsistent with the mandate of Article 21 of the Constitution. Reference in this connection may be made to the judgments/orders *inter alia* in *Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India and Others*², *Union of India v. K.A. Najeeb*³, *Jitendra Jain v. Narcotics Control Bureau and Anr.*⁴, *Dheeraj Kumar Shukla v. State of U.P.*⁵, *Rabi Prakash v. State of Odisha*⁶, *Badsha SK. v. The State of West Bengal*⁷, *Man Mandal and Anr. v. The State of West Bengal*⁸, and *Rased Mia v. The State of West Bengal*⁹. Proceeding on these considerations, the applicant has been in custody for over two years already. The trial is still at a nascent stage. Mr. Chauhan submits that, out of 27 witnesses, 3 have been examined so far. Expeditious conclusion of proceedings, therefore, seems unlikely.

15. The applicant is only 20 years of age. The Nominal Roll also does not show any prior criminal involvement of the applicant.

16. Considering the aforementioned factors, it is directed that the

¹ 2023 SCC OnLine SC 352, paragraphs 19 to 22.

² (1994) 6 SCC 731.

³ (2021) 3 SCC 713.

⁴ SLP (CrL.) No. 8900/2022, decided on 16.12.2022.

⁵ SLP (CrL.) No. 6690/2022, decided on 25.01.2023.

⁶ SLP (CrL.) No. 4169/2023, decided on 13.07.2023.

⁷ SLP (CrL.) No. 975/2023, decided on 13.09.2023.

⁸ SLP (CrL.) No. 8656/2023, decided on 14.09.2023.



applicant be released on regular bail in connection with FIR No. 174/2024 dated 29.02.2024, registered at Police Station Narela, District Outer North, New Delhi, under Sections 21/25/29 of the NDPS Act, subject to furnishing a bail bond in the sum of Rs. 25,000/-, with one surety of the like amount, to the satisfaction of the learned Trial Court/Duty Magistrate, and further subject to the following conditions:

- a. The applicant shall appear before the concerned Trial Court on each and every date of hearing fixed.
- b. If the applicant 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.
- c. The applicant 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 applicant 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 applicant 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.

⁹ SLP (Crl.) No. 14347/2023, decided on 24.01.2024.



- f. The applicant 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 applicant shall not commit any offence during the pendency of the proceedings.
17. The bail application is disposed of in terms of the above.
18. 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.
19. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

PRATEEK JALAN, J

MARCH 23, 2026

“Bhupi/KA”/