



2026:DHC:1497



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

Reserved on: February 05, 2026
Pronounced on: February 20, 2026

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+ **BAIL APPLN. 4454/2025**

ABETOLI AWOMI

....Applicant

Through: Mr. Javed Khan, Advocate

Versus

THE STATE NCT OF DELHI

....Respondent

Through: Ms. Meenakshi Dahiya, APP for State
with SI Naveen Kumar, Anti Narcotics
Cell/ Dwarka

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present application under *Section 483* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the applicant, namely Abetoli Awomi D/o Nihose seeks grant of regular bail in proceeding arising out of FIR No.728/2024 registered at Police Station Dabri, New Delhi, under *Sections 8/22/25/29* of the Narcotic Drugs and Psychotropic Substances Act, 1985².

2. *Briefly encapsulated*, it is the case of the prosecution that on 01.11.2024, based on the information regarding a fire incident, received at

¹ Hereinafter referred to as '*BNSS*'

² Hereinafter referred to as '*NDPS Act*'



PS.: Dabri, the police officials proceeded to the spot at H.No. Q-10, Nanda Block, Mahavir Enclave, Dabri, New Delhi³, where it was found that the said fire was broken out as a result of a chemical explosion. During inspection, it emerged that a clandestine lab for making *amphetamine* drug was being run from the second floor of the premises and one porta cabin was also constructed on the rooftop for mixing chemicals. As such, after taking due authorization, a search was conducted at the second floor, from where 70 grams of *amphetamine* drug along with large quantity of chemicals/ raw materials for its manufacturing was recovered.

3. Upon investigation, it was revealed that one Mr. Jean Patrice Tape, an African national, had rented the second floor of the premises. As such, on 06.11.2024, based on manual and technical intelligence, Mr. Tape was apprehended from Greater Noida and 80 grams of *amphetamine* drug was recovered from him.

4. Mr. Tape in his disclosure statement disclosed that he along with his live-in partner Abetoli Awomi, present applicant, were residing at a rented accommodation at Tamil Enclave, Dabri. He disclosed that he along with three other African national conspired to set up a clandestine laboratory for preparation of *amphetamine* and for the said purpose they had even called a foreign expert. He further disclosed that initially the said drug was prepared at his residence, however due to paucity of space therein, he shifted the laboratory to the second floor of the premises.

5. Regarding the present applicant, Mr. Tape in his supplementary

³ Hereinafter referred to as '*premises*'



disclosure statement disclosed that she was an accomplice in selling of the drugs in the market. Based thereon, the applicant, on 09.11.2024, was apprehended from the third floor of H.No. C-1, Tamil Enclave, Dabri, New Delhi. Upon search of the applicant, one white coloured polythene tied with a knot was recovered from a black sling bag which she was carrying on her shoulder. Upon opening the same, a white crystalline substance was found which, upon field testing, tested positive for *amphetamine*. The total weight of the polythene along with the recovered substance was found to be 57 grams. Thereafter, the applicant was arrested and was in judicial custody till she was released on interim bail on 19.12.2025.

6. At the very outset, learned counsel for the applicant submitted that the applicant had already surrendered.

7. Of the many grounds, learned counsel for the applicant submitted that the exact quantity of the contraband recovered from the applicant is under cloud of suspicion since the alleged recovery of 57 grams substance includes the weight of the polythene/ pouch in which the substance was allegedly seized. He submitted that the prosecution has not taken any steps to ascertain the net weight of the contraband. He further submitted that no independent witnesses were joined and no videography was conducted at the time of recovery which further cast doubt upon the exact quantity of the contraband recovered.

8. Learned counsel also submitted that since the alleged recovered quantity of 57 grams is marginally/ slightly above the threshold of the commercial quantity under NDPS Act, there is no impediment for this Court



to give a go-by to the bar envisaged under *Section 37* of the NDPS Act by ignoring/ not giving weightage to such extra quantity. Reliance in this regard is placed upon *Vinay Sharma vs. State Govt. of NCT of Delhi*⁴, *Shankar Pal vs. State Govt of NCT of Delhi*⁵ and *Guruprabh Singh @ Prince vs. State of Punjab*⁶.

9. Learned counsel then submitted that though the applicant was arrested on 09.11.2024 and it has been over one year and two months, the trial is yet to commence effectively. Moreover, there are as many as 40 witnesses, of which none of them has been examined yet. In view thereof, he submitted that in such circumstances, the rigours of *Section 37* of the NDPS Act can be diluted.

10. *Per contra*, learned APP for the State opposed grant of any relief to the applicant and submitted that the present case involves recovery of commercial quantity, whereby, rigours of *Section 37* of the NDPS Act are attracted against the applicant.

11. This Court has heard the learned counsel for the applicant and the learned APP and perused the documents on record along with the judgements cited therewith.

12. Allegedly, recovery of 57 grams of *amphetamine* drug has been effected from the possession of the applicant, which *prima facie* exceeds the threshold of 50 grams for qualifying commercial quantity thereby bringing the case within the fold of the special restrictions engrafted for offences

⁴ 2025:DHC:6358

⁵ Order dated 28.10.2025 passed in Bail Appl. No. 1657/2025

⁶ 2025:PHHC:027809



involving commercial quantity. Therefore, there is a clear embargo on bail as provided under *Section 37* of the NDPS Act, and the requirements therein are not mere empty formalities but constitute a legislative mandate which has to be considered where there is a recovery of commercial quantity and can only be relaxed on careful appraisal of the material. Reference in this connection can be made to *Union of India v. Ram Samujh*⁷, *Union of India v. Ajay Kumar Singh*⁸ and *Union of India v. Vigin K. Varghese*⁹.

13. In the present case, *prima facie* since the co-accused Mr. Tape has disclosed the applicant's involvement in the organised syndicate in manufacturing and supply of the *amphetamine* drug, as also since the hurdle of *Section 37* of the NDPS Act squarely applies, and since there is an alleged recovery of 57 grams of *amphetamine* drug from her person (sling bag which she was carrying on her shoulder), there is hardly leaving any chance for this Court to accord bail to the applicant.

14. Though the learned counsel for the applicant has contended that there is a doubt regarding the actual amount of contraband recovered inasmuch as the recovered contraband was not weighed separately and includes the weight of the polythene in which it was kept, however, considering that this Court is dealing with an application wherein the applicant is seeking regular bail, the same need not be gone into at this stage.

15. A perusal of the Status Report filed by the State reveals as under:-

“... ..that the white polythene in which narcotics substance

⁷ (1999) 9 SCC 429

⁸ 2023 SCC OnLine SC 346

⁹ 2025 SCC OnLine SC 2440



was recovered from the applicant/ Abetoli Awomi was negligible as weight of identical white polyethenes in which samples were drawn before the Hon'ble court was 0 grams."

16. Even otherwise, there is only a white polythene which is involved. Be that as it may, the difference between the notified commercial quantity and the recovered quantity is 7 grams. At this stage, without any material, this Court cannot presume that the weight of the polythene would be such as to reduce the net quantity below the commercial threshold of 50 grams, and the same cannot be a justifiable ground for melting the rigours of the *Section 37* of the NDPS Act.

17. Insofar as the custody of the applicant for approximately one year and two months since her arrest on 09.11.2024 is concerned, the records reveal that since the chargesheet has already been filed and the charges have been framed against the applicant on 31.10.2025, it cannot be said that the trial is either stagnant and/ or that there is any inordinate delay so as to warrant a relaxation of the statutory constraints of *Section 37* of the NDPS Act.

18. In any event, the Hon'ble Supreme Court in ***Vigin K. Varghese (supra)*** has clearly held that long incarceration and the anticipated time required to complete the trial cannot, in isolation, be treated as decisive factors so long as the twin conditions under *Section 37* of the NDPS Act are not satisfied. As alleged by the applicant that there are no independent witnesses and/ or there is absence of videography, the same cannot itself be considered weighty enough to grant bail to the applicant. Even otherwise, the same and/ or relevance thereof, and/ or the consequences thereof, are all to be



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examined during trial.

19. In light of the above discussions, there is no ground made out for granting bail to the applicant at this stage and as such, the present bail application is dismissed.

20. Needless to say, the observation made herein above, 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 of the matter.

SAURABH BANERJEE, J.

FEBRUARY 20, 2026
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