



2026:DHC:1242



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

Reserved on: February 05, 2026

%

Pronounced on: February 13, 2026

+ **BAIL APPLN. 4882/2025**

SUNIL KUMAR

..... Applicant

Through: Shri Abhijat, Sr. Adv. alongwith Mr. Rajat Wadhwa, Mr. Harsh Prabhakar, Ms. Pallavi Garg, Mr. Dhruv Chaudhry, Mr. Gurpreet Singh and Mr. Vijit Singh, Advs.

Versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with Ms. Upasna Bakshi, Advocate with SI Daizy Dagar, PS: Crime Branch

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present bail application under *Section 483* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks grant of regular bail in proceedings arising from FIR No.296/2025 dated 08.10.2025 registered at PS.: Crime Branch, Delhi under *Sections 22/25* of the Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS Act**).

2. As per FIR, on 07.10.2025 at about 12:30 PM, secret information was received that one Mr. Mohd. Abid, resident of Madanpur Khadar, was in illegal possession of a large quantity of Tramadol Hydrochloride at his

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residence and was likely to supply the same on that day. The said information was verified, reduced into writing, and communicated to the concerned Inspector and ACP, in compliance with *Section 42* of the NDPS Act, pursuant whereunto a raiding team was constituted. The departure of the raiding party was recorded vide DD No.133A dated 07.10.2025 at about 03:15 PM. After obtaining due permission to conduct search from the concerned ACP, the raiding party reached H.No.C-142, Gali No.10, Mehak Apartment, Madanpur Khadar Extn-1, Sarita Vihar, Delhi at about 06:30 PM. Upon enquiry, the person present at the said premises disclosed his identity as Mohd. Abid S/o Mohd. Zohoor, aged about 50 years. Notices under *Section 50* of the NDPS Act were served upon the accused person, who waived his right to be searched in presence of a Gazetted Officer or Magistrate.

3. Consequently, the personal as well as the search of the office/ house of the accused was conducted. While no contraband was recovered from the clothes and/ or body of the accused, however, a green plastic bag containing a carton was recovered from the office/ house. Upon examination, 270 packets of Tramadol Hydrochloride Tablets U.S.P. Treken-100 were found. Of these, each packet was containing 200 tablets, totalling 54,000 tablets. Field testing confirmed the recovered substance to be '*Tramadol*', and the total weight of the contraband was found to be approximately 14.472 kg. The recovered contraband was thereafter sealed with the seal 'CR-14', marked as 'Exhibit A-1', and seized *vide* seizure memo in accordance with law. The accused along with the case property was brought to the office at about 12:15 AM on 08.10.2025, and the present FIR came to be registered.

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4. During investigation, the accused Mr. Mohd. Abid disclosed that he had procured the recovered contraband from one Mr. Javed Khan S/o Gaffar Khan. Pursuant to the said disclosure, Mr. Javed Khan was arrested on 30.10.2025, who, thence disclosed that the source of the said contraband was Mr. Sunil Kumar i.e. the applicant herein. Thereafter, on 01.11.2025, the warehouse of the applicant herein was searched, wherein no incriminating article or narcotic substance was recovered. In furtherance thereof, the applicant was arrested on 02.11.2025, and disclosed the name of the source, one Mr. Vishnu Dutt Mundal.

5. Subsequently, the Bail application made by the applicant before the learned Trial Court was dismissed *vide* order dated 02.12.2025. Hence, the present bail application by the applicant.

6. Of the many grounds raised by the applicant in the present application, Mr. Abhijat, learned senior counsel for the applicant submitted that there is no material on record to establish that the contraband recovered from the co-accused, Mr. Mohd. Abid formed part of the consignment stored at the applicant's warehouse. Further, the investigating agency has failed to demonstrate any cogent or admissible link between the recovery from the premises of the co-accused and the 40 boxes/ packages of Tramadol Hydrochloride Tablets stated to have been stored at the applicant's warehouse. Thus, the prosecution's attempt to bridge this crucial gap rests solely on the confessional statements of the co-accused, which presumption, in the absence of any admissible evidence, is wholly unfounded, and untenable in law.



7. Relying upon the judgment in *Abdul Rab vs. Narcotics Control Bureau*¹, Mr. Abhijat, learned senior counsel submitted that, admittedly, no recovery was effected either at the instance of the present applicant or from the applicant's warehouse, therefore, mere allegations of the applicant being in contact/ touch with the co-accused persons, from whom contraband was allegedly recovered, cannot constitute corroborative or incriminating material against the applicant and in the absence thereof, the rigours of *Section 37* of the NDPS Act are not attracted so as to operate as an impediment to grant of bail to the applicant.

8. To counter the prosecution's contention to establish a linkage between the applicant and the co-accused on the basis of mobile connectivity and Call Detail Records (*CDRs*), Mr. Abhijat, learned senior counsel placing reliance upon *Amit Ranjan vs. Narcotics Control Bureau*², submitted that such reliance is wholly misplaced at the stage of consideration of bail, as the mere existence of *CDRs* between the applicant and the co-accused, by itself, is insufficient to establish the existence of any conspiracy between the applicant and the co-accused persons.

9. Relying upon the judgment in *Saneesh Soman vs. Narcotics Control Bureau*³, Mr. Abhijat, learned senior counsel submitted that it is well settled that the concept of '*conscious possession*' under the NDPS act, necessitates both, knowledge of and intention/ ability to exercise control over the contraband. The learned senior counsel submitted that there exists no cogent

¹ 2025 SCC Online Del 293

² 2022 SCC Online Del 1532

³ 2025 SCC Online Del 4994



material to infer that the applicant was in ‘*conscious possession*’ of the recovered contraband. In fact, the applicant is merely engaged in the business of providing storage facility/ warehouse operated under the name and style of Prahlad Logistics, and he had no knowledge of the contents of the package, particularly, since such packages are temporarily deposited at his facility during transit.

10. Lastly, relying upon the judgments in *Vanga Rahul Varshney vs. State of NCT of Delhi*⁴ and *Rahul Gupta @ Roshan @ Khalla vs. State*⁵, Mr. Abhijat, learned senior counsel submitted that the applicant has no criminal antecedents insofar as offences under the NDPS Act are concerned, since his only prior involvement relates to alleged offences under *Sections 33* and *38* of the Delhi Excise Act, 2009, which bear no nexus or relevance whatsoever to the offences alleged under the NDPS Act.

11. The aforesaid, as per Mr. Abhijat, learned senior counsel are satisfying the second statutory requirement as provided for under *Section 37* of the NDPS Act for grant of bail, and in light thereof, the applicant deserves to be granted bail.

12. Notice was issued and Status Report was called for as also the Nominal roll of the applicant was also requisitioned from the concerned Jail Authorities.

13. *Per contra*, placing reliance upon the judgment in *State of Madhya*

⁴ Order dated 08.10.2025 in Bail Application No. 1302/2025

⁵ 2019 SCC Online Del 9042



*Pradesh vs. Kajad*⁶, *Union of India vs. Rattan Mallik @ Habul*⁷ and *Union of India vs. Ram Samujh & Ors.*⁸, Mr. Satish Kumar, learned APP for the State opposed the present application and submitted that since the offence involves recovery of 14.472 kg of Tramadol Hydrochloride Tablets, which constitutes a ‘*commercial quantity*’ under the NDPS Act, the embargo of *Section 37* of the NDPS Act finds applicability and since the applicant failed to satisfy the twin conditions prescribed therein, he may not be released on bail.

14. Mr. Satish Kumar, learned APP further submitted that during the course of investigation, the applicant produced a register purportedly containing records of items received and dispatched from his warehouse. A perusal of the said register reveals that *forty* (40) boxes of the banned Tramadol Hydrochloride Tablets were received at the applicant’s warehouse, out of which, only *eight* (8) boxes were shown as having been dispatched, while no entry or explanation was provided in respect of the remaining *thirty two* (32) boxes, thereby lending substantial corroboration to the statements of the co-accused as also indicating the active involvement and role of the present applicant in commission of the alleged offence.

15. Lastly, Mr. Satish Kumar, learned APP submitted that bearing in mind the gravity of the offence, the seriousness of the allegations levelled against the applicant as also since the applicant is a person with criminal antecedents, inasmuch as is involved in another case being FIR No.65/2020 registered at

⁶ (2001) 7 SCC 673

⁷ (2009) 2 SCC 624

⁸ (1999) 9 SCC 429



PS.: Crime Branch, Delhi under *Sections 33/38* of the Delhi Excise Act, 2009, thereby demonstrating that he is a habitual offender. In these circumstances, there exists a strong and reasonable apprehension that, if the applicant is released on bail, he is likely to indulge in similar unlawful activities and misuse the liberty so granted.

16. In light of the aforesaid, Mr. Satish Kumar, learned APP for the State seeks that the present bail application may be dismissed.

17. This Court has heard Mr. Abhijat, learned senior counsel for the applicant and Mr. Satish Kumar, learned APP for the State, as also perused the Status Report and the other documents on record.

18. As per settled position of law in *Tofan Singh vs. State of Tamil Nadu*⁹, a disclosure statement recorded under *Section 67* of the NDPS Act before an officer empowered under *Sections 42 and 53* of the Act, cannot, by itself, form the basis of conviction. At best, such a statement may be looked into for the limited purpose of lending assurance to other independent and admissible evidence and cannot be treated as the foundational basis for establishing guilt.

19. It is an admitted position herein that the present applicant is not named in the FIR, nor has any recovery been effected either from his own self and/or from the warehouse owned by him. The role of the applicant has not been ascertained and/or established at this stage, moreover, the chargesheet is yet to be filed. Under such circumstances, the sole ground of reliance by the prosecution is limited to the disclosure statement(s) of the co-accused

⁹ (2021) 4 SCC 1



persons, even though along with the existence of CDR connectivity *inter se* the applicant and the co-accused persons are not, *per se*, sufficient to establish complicity. The applicant herein is seeking regular bail and the investigation is at the preliminary stage, when no adverse inference/ definitive conclusion against the applicant can be drawn. Thus, the entry of *forty* (40) boxes of the Tramadol Hydrochloride Tablets in the register is not conclusive to itself connect the applicant with the incident involved.

20. For the nature of offences, and penal provisions involved, the registration of another FIR being FIR No.65/2020 registered under *Sections* 33/38 of the Delhi Excise Act, 2009 is also itself not sufficient for being supplemental weightage. In fact, as per the law laid down in ***Prabhakar Tiwari vs. State of Uttar Pradesh***¹⁰, by and large, the nature of offences/ charges involved being grave and serious and/ or pendency of other/ several criminal cases against an accused are/ cannot be the only basis for rejection of bail to an accused and the Court has to take a holistic view of the facts and circumstances.

21. In light of the aforesaid, the applicant be released on regular bail in FIR No.296/2025 dated 08.10.2025 registered at PS.: Crime Branch, Delhi under *Sections* 22/25 of the NDPS Act on him furnishing a personal bond in the sum of Rs.50,000/- along with one surety of the like amount by family member/ friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

¹⁰ (2020) 11 SCC 648



- i. 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 prison records. If he wishes to change his residential address he shall immediately intimate about the same to the Jail Superintendent by way of an affidavit.
- ii. Applicant shall surrender his passport to the Investigating Officer, within three days. If he does not possess the same, he shall file an affidavit before the Investigating Officer to that effect within the stipulated time.
- iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicant shall join investigation as and when called by the Investigating Officer concerned. He shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.
- iv. Applicant shall provide all his mobile numbers to the Investigating Officer concerned which shall be kept in working condition at all times and shall not be switch off or change the mobile number without prior intimation to the Investigating Officer concerned. The mobile location be kept on at all times.
- v. Applicant shall report to the Investigating Officer at PS.: Crime Branch, Delhi once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.
- vi. Applicant shall not indulge in any criminal activity and shall not



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communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case or try to dissuade them from disclosing such facts to the Court or to any police official(s).

22. Accordingly, the present application is disposed of in the above terms.
23. Needless to say, observations made on the merits of the matter, if any, are only for the purposes of deciding the present application and they shall not be construed as expressions on the merits of the matter.
24. A copy of the present order be sent to the concerned Jail Superintendent for onward information and necessary compliance thereof.

SAURABH BANERJEE, J

FEBRUARY 13, 2026/So/DA