



2026:DHC:2049



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

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Judgment reserved on: 27.02.2026
Judgment pronounced on: 11.03.2026
Judgment uploaded on: 13.03.2026

+ **BAIL APPLN. 4932/2025**

AJAY KUMAR

.....Petitioner

Through: Mr. Ankit Kumar and Ms.
Shreya Yadav, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the
State.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 0186/2025, registered at Police Station Nand Nagri, Delhi, for the commission of offences punishable under Sections 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 [hereafter '*NDPS Act*'].

2. Briefly stated, the facts of the case are that on 27.03.2025 at about 04:42 AM, PCR calls *vide* DD Nos. 13-A, 14-A and 16-A were received regarding illegal storage of narcotic substance at E-1/458,



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Nand Nagri, Delhi. The police reached the spot and conducted a search; however, no narcotic substance was found at that time. Surveillance and local enquiry in the area were thereafter continued. At about 12:10 PM on the same day, a secret informer informed the Investigating Officer (I.O.) that a person wearing a blue shirt and dark green lower was standing near House No. E-1/458, Nand Nagri and was carrying heroin for the purpose of sale. The information was reduced into writing and conveyed to the SHO and senior officers, following which a raiding team was constituted. At about 02:00 PM, the informer pointed out the suspected person, who was apprehended and disclosed his name as Ajay (the present applicant), resident of E-1/458, Nand Nagri, Delhi. A notice under Section 50 of the NDPS Act was served upon him informing him of his right to be searched before a Gazetted Officer or Magistrate, which he declined. However, it is stated that the ACP, Sub-Division Nand Nagri, was called to the spot and the search was conducted in his presence. During the search, one white polythene containing brown powder was recovered from the right pocket of the dark green lower worn by the present accused. On testing with a field testing kit, the substance was found to be heroin. On weighing, the gross weight was 252.37 grams including the polythene (2 grams), and the net weight of heroin was found to be 250.37 grams, which falls within commercial quantity. The narcotic substance was then sealed with the seal of "MK", marked as Mark 'A', and seized vide seizure memo. Photographs and videography of the proceedings were also conducted through the e-evidence



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application. The accused was arrested on 27.03.2025 and two days' police custody was obtained for tracing the source of supply; however, despite efforts, the source of the contraband could not be traced.

3. The learned counsel appearing for the applicant argues that the alleged substance recovered from the present applicant is only slightly above the intermediate quantity and, therefore, the rigours of Section 37 of the NDPS Act may not be invoked in the present case. It is also contended that the applicant has no previous involvement in any criminal case and has been falsely implicated in the present matter. It is further argued that there are several discrepancies in the prosecution case, including discrepancy regarding the actual weight of the alleged recovery from the applicant, which renders the prosecution case doubtful. It is therefore prayed that the present applicant be granted regular bail, particularly since he has remained in judicial custody for more than 11 months.

4. The learned APP for the State, on the other hand, opposes the present bail application and contends that the allegations against the present accused/applicant are serious in nature. It is argued that the applicant was apprehended with more than 250 grams of heroin, which falls within the category of commercial quantity, and therefore the rigours of Section 37 of the NDPS Act are clearly attracted. It is submitted that the contraband was recovered from the conscious possession of the applicant during a search conducted after



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compliance with the provisions of the NDPS Act. It is further submitted that the proceedings under Section 52A of the NDPS Act have been duly conducted and the case property was sealed with the seal of the learned Magistrate. The case property was thereafter received at the FSL with the seal intact. Therefore, merely because there was some delay in sending the samples to FSL, it cannot be presumed that the case property was tampered with. The learned APP also submits that the minor variation in the weight of the contraband recorded at different stages is insignificant inasmuch as the difference of about 5–7 grams may occur due to several reasons such as variation in weighing scales or possible absorption of moisture by the substance. However, at no stage did the net weight of the recovered heroin fall below 250 grams, which remains within the category of commercial quantity. It is therefore argued that considering the recovery of commercial quantity of heroin from the possession of the applicant and the gravity of the offence, the present bail application be dismissed.

5. This Court has **heard** arguments addressed on behalf of the applicant as well as the State, and has perused the material available on record.

6. After hearing the arguments and perusing the case file, the Status Report and the impugned order *vide* which the bail of the present applicant was dismissed by the learned Sessions Court, this Court notes that the learned Sessions Court has particularly already



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dealt with, in detail, the contentions raised by the learned counsel for the applicant regarding the alleged discrepancies in the prosecution case, including the aspects relating to receipt of information and PCR calls on the day the applicant was apprehended. At this stage, this Court finds no reason to take a different view, as the alleged discrepancies were explained by the concerned prosecutor before the Sessions Court, as noted in detail in the impugned order and, in any case, such issues are matters which can only be examined during trial on the basis of evidence.

7. Insofar as the arguments regarding the alleged discrepancies in the recovery proceedings and the proceedings conducted under Section 52A of the NDPS Act are concerned, this Court is of the view that the record indicates that the case property was sealed and the proceedings under Section 52A of the NDPS Act were carried out before the learned Magistrate. It is also not disputed that when the case property was received at the FSL, it bore the seal of the learned Magistrate intact. Therefore, merely because there was some delay in sending the samples to the FSL, it cannot be presumed, at this stage, that the case property was tampered with.

8. Even otherwise, the Hon'ble Supreme Court in *Narcotics Control Bureau v. Kashif*: 2024 SCC OnLine SC 3848, has held that any lapse or irregularity in compliance with the procedure under Section 52A of the NDPS Act, by itself, does not vitiate the proceedings nor does it entitle an accused to bail. Such issues are



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essentially matters of evidence which are to be examined during trial and cannot be conclusively determined at the stage of consideration of bail.

9. It is also pertinent to note that the recovery effected from the present applicant is 250.37 grams of heroin, which falls within the category of commercial quantity, thereby attracting the bar contained under Section 37 of the NDPS Act. Section 37 mandates that the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty and that he is not likely to commit any offence while on bail. The Hon'ble Supreme Court in *Narcotics Control Bureau v. Mohit Aggarwal*: 2022 SCC OnLine SC 891, has clarified that "reasonable grounds" mean credible and plausible grounds to believe that the accused is not guilty. In the case at hand, at this stage, this Court does not find any material on record which would satisfy the twin conditions contemplated under Section 37 of the NDPS Act.

10. Further, the FSL report has already been received and it supports the case of the prosecution regarding the nature of the recovered substance. The charges in the present case are yet to be framed.

11. Considering the overall facts and circumstances of the case, particularly the recovery of commercial quantity of heroin from the possession of the applicant and the bar under Section 37 of the NDPS Act, this Court does not find any ground to enlarge the present



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applicant on regular bail at this stage.

12. Accordingly, the present bail application stands dismissed.

13. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

14. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MARCH 11, 2026/vc

T.S.