



\$~10

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

+ **BAIL APPLN. 809/2026 & CRL.M.A. 6217/2026**

ARJUN SABAR

.....Petitioner

Through: Mr. Apoorv Shankar with Mr. Suchit,
Advocates

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Ms. Shelly Dixit, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

%

20.03.2026

1. Applicant seeks regular bail in Case No. VIII/84/DZU/2021 registered against him for commission of offences under Sections 8(c)/22(c)/23/29 of *Narcotic Drugs and Psychotropic Substances Act, 1985 (In short NDPS Act)*.
2. As per prosecution, Narcotics Control Bureau (NCB) received a secret information that a person would arrive at FEDEX Courier Service, B-236, Phase-I, Okhla, New Delhi, with a packet which would be containing contraband. On the basis of such specific tip off, a raiding team was prepared and applicant herein was apprehended from said place. He was having a packet and upon interrogation, he revealed that he had come to said courier office to book a parcel which merely contained clothes. However, when he was told by the raiding team about the purpose of the visit, he admitted that the parcel was containing *Methamphetamine drug* and that the

BAIL APPLN. 809/2026

1



same had been brought by him on the instructions of one person-Ashok of African origin person and that such parcel was to be sent to Australia. The parcel was checked and was found containing 200 grams of *Methamphetamine drug*.

3. During further investigation, on the basis of his disclosure, 300 grams of *Amphetamine* was recovered.

4. His co-accused-Ashok Ekka, allegedly, the source of the aforesaid contraband was also, later on, apprehended but when enlarged on interim bail, he jumped the bail and is still at large.

5. The complaint against the accused has already been filed and charges were also framed but the trial is getting delayed because of non-appearance of his co-accused-Ashok Ekka.

6. Learned counsel for NCB admits that such co-accused has already absconded and *Non-Bailable Warrants* have also been issued against him.

7. The prime-most grievance coming from the side of applicant is that his valuable right of speedy trial has been seriously jeopardized as there is no progress in the matter and only one witness has entered into witness out of 21 cited witnesses. Additionally, it is argued that there is no conscious possession as he was not aware about the contents of the parcel and prosecution has churned out a false story, about his admission which is not legally admissible. It is also contended that no videography or photography of the alleged search and seizure was got conducted. It is also contended that there is non-compliance of mandatory provisions of section 42 and Section 50 of NDPS Act.

8. Learned counsel for the respondent-NCB opposes the bail *plea* of the applicant and submits that as and when other co-accused is arrested, every



effort would be made to wrap up the trial. It is also supplemented that since one co-accused is absconding, they would take steps for separation of trial to ensure that there is no further delay. It is contended that recovery is of commercial quantity and, therefore, applicant is not entitled to be released on bail.

9. The accusation is with regard to recovery of commercial quantity of contraband. Once the rigours of Section 37 of the NDPS Act stand attracted, as provided in the provision itself, the Court can grant bail only when the twin conditions stipulated in Section 37(1)(b) of the NDPS Act are satisfied i.e. *(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (ii) where the Public Prosecutor oppose the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.*

10. Learned Counsel for applicant contends that liberal interpretation of Section 37 of the NDPS Act must be done, particularly when the applicant did not have any knowledge about the contents of the parcels, coupled with unexplained delay in trial and long incarceration. Though the aspects related to violation of any statutory provision or about knowledge or *mens rea* would be appropriately answered after the conclusion of trial, however, delay in trial and long period of incarceration is an important factor which cannot be disregarded while considering bail. Learned counsel for applicant submits that the applicant is in custody since the date of his arrest i.e. 24.12.2021 and there is no likelihood of completion of trial in near future as only one witness out of twenty-one cited witnesses has entered into the witness box. He places reliance upon *Rabi Prakash v. State of Odisha: 2023*



SCC OnLine SC 1009, *Mohd. Muslim v. State (NCT of Delhi)*, 2023 SCC OnLine SC 352, *Man Mandal & Anr. vs. The State of West Bengal*, 2023 SCC OnLine SC, *Dheeraj Kumar Shukla v. State of U.P.*, 2023 SCC OnLine SC 918, *Badsha Sk. V. State of W.B.* 2023 SCC OnLine SC 1867, *Zakir Hussain v. State (Govt. Of NCT of Delhi)* 2025 SCC OnLine Del 253, *Seema v. State NCT of Delhi* 2025 SCC OnLine Del 218, *Sachin Arora v. State Govt NCT of Delhi* 2023 SCC OnLine Del 4941 and *Vinay Sharma v. State (NCT of Delhi)*: 2025 SCC OnLine Del 5137.

11. Hon'ble Apex Court in *Rabi Prakash* (supra), while granting bail to the petitioner therein held as under: -

“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”

12. In *Badsha SK.*(supra) bail was granted to the accused who had been in custody for more than two years when the trial had not commenced. In *Man Mandal* (supra) also, the accused had been in custody for almost two years and the Hon'ble Apex Court released him on bail, while observing that the trial was not likely to be completed in immediate near future. In *Dheeraj Kumar Shukla* (supra), observing that though the quantity was commercial in nature and the provisions of Section 37 of the Act may, ordinarily, be attracted, in the absence of criminal antecedents and the fact that the accused



was in custody for the last two and a half years, bail was granted by Hon'ble Supreme Court while dispensing with the conditions of Section 37 of NDPS.

13. Thus, despite the fact that the case in hand relates to commercial quantity, when it comes to somebody's invaluable right of life and liberty and speedy trial, Article 21 of the Constitution of India must prevail over statutory prohibition.

14. The Nominal Roll of the applicant has been received from the Jail Authorities which indicates that his incarceration in the present case is for a period of more than four years two months already and it does not disclose prior involvement of the applicant in any other case. His overall jail conduct, as per the Nominal Roll, is found to be satisfactory.

15. Keeping in mind the above *albeit* without expressing any opinion over the merits of the case, the applicant is, hereby, directed to be released on bail on his furnishing personal bond in a sum of Rs. 25,000/- with one surety of like amount, subject to the satisfaction of learned Trial Court/CMM/Duty Magistrate with the following conditions: -

- (i) *The surety shall be 'local'.*
- (ii) *The address, where the applicant would be residing after his release, shall be revealed in advance and the learned Trial Court will be at liberty to get the same verified, before accepting the bonds.*
- (iii) *The applicant shall not leave the National Capital Region of Delhi, without prior permission of the learned Trial Court.*
- (iv) *The applicant shall not try to contact and influence any witness, directly or indirectly.*



(v) He shall provide one Mobile Number to the concerned I.O and shall ensure that his such Mobile Number remains active and operational, till the disposal of the case by the learned Trial Court.

(vi) He shall appear before the Court on each and every date of hearing.

(vii) Any violation thereof shall invite cancellation of bail.

16. The application stands disposed of in aforesaid terms.
17. Pending application also stands disposed of.
18. A copy of this order be immediately sent to the learned Trial Court and Jail Superintendent for information and necessary compliance.

MANOJ JAIN, J

MARCH 20, 2026/dr/sa