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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 21.04.2025***+ **BAIL APPLN. 4256/2024****PRAVEEN**

.....Petitioner

Through: **Mr. Mohit Rana and Mr. Gulam Ali, Advs.**

versus

STATE GOVT OF NCT OF DELHIRespondentThrough: **Ms. Meenakshi Dahiya, APP
with SI Vikas Kuhar, PS
Special Cell.****CORAM:****HON'BLE MS. JUSTICE SHALINDER KAUR****SHALINDER KAUR, J. (ORAL)**

1. By way of the present petition filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the petitioner/applicant seeks Regular Bail in FIR No.337/2022 dated 15.11.2022, for the offences punishable under Section 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Section 14 of the Foreigners Act, 1946, registered at Police Station Special Cell, Delhi.

2. The present case arises out of information received on 15.11.2022, by Sub-Inspector (SI) Vikas of the Special Cell, Delhi, to the effect that one Umesh Singh, a resident of Ambala, Haryana, was actively involved in trafficking of narcotic drugs and psychotropic



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substances, and was in the habit of procuring *heroin* from a person named Surender, a resident of Uttam Nagar, Delhi. It was specifically informed that Umesh Singh, after having secured a substantial quantity of *heroin* from Surender, would be present near Chandgiram Akhada, Delhi, between 5:00 PM and 6:00 PM on the same day.

3. The said information was recorded in writing by SI Vikas and communicated to Inspector Ankur. Upon satisfaction of the credibility of the information, the same was further conveyed telephonically to ACP Ved Prakash of the Special Cell (Northern Range), who directed that appropriate legal action be taken and also authorized SI Vikas to undertake the necessary raid, search and seizure proceedings in accordance with law. In this regard, Daily Diary Entry No. 95A was recorded at Police Station Special Cell, Delhi at 3:20 PM on 15.11.2022.

4. A raiding party, led by SI Vikas, was constituted, and a trap was laid near Chandgiram Akhada. At approximately 5:15 PM, one individual, later identified as Umesh Singh, was seen approaching from the direction of Chandika Mandir, carrying a green and black colored backpack. He was identified by the informer as the person in question. Upon being apprehended, Umesh Singh was apprised of the secret information and was served a notice under Section 50 of the NDPS Act. ACP Ved Prakash reached the spot and, in his presence, a search of the aforementioned bag was conducted, which led to the recovery of a transparent polythene packet containing 3Kgs of *heroin*.

5. The aforementioned FIR got registered, and the investigation was assigned to SI Dharmendra. Umesh Singh was formally arrested



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after being informed of the grounds of arrest. During the course of the interrogation, he disclosed that he used to procure *heroin* from Shailender @ Surender, a resident of Uttam Nagar, Delhi, on the directions of one Vikas @ Vikki, resident of Valmiki Basti, Ambala City, Haryana. He further stated that on the date in question, he had collected 3 Kgs of *heroin* from Shailender at Vikaspuri, Delhi, in exchange for ₹2,30,000 provided to him by Vikas. He also mentioned that the consignment was meant for delivery in Ambala and disclosed the last four digits of the auto-rickshaw (TSR No. 6505) used by Shailender for the delivery.

6. On the basis of technical surveillance mounted on Shailender's movements, his location was traced to Uttam Nagar, Delhi on 16.11.2022. Acting on this information, a police team reached near KM International School, Uttam Nagar, where Umesh Singh identified a TSR and the person driving it as Shailender. The said individual was apprehended, informed of the allegations, and served a notice under Section 50 of the NDPS Act. No contraband was recovered from his personal search or the vehicle. He was arrested after being apprised of the grounds of arrest and a search of his residence was conducted.

7. At his instance, cash amounting to ₹2,29,500/, alleged to be the proceeds of sale of *heroin*, along with property documents suspected to be acquired from narcotics proceeds, were recovered and seized through a seizure memo. His brother, the petitioner herein, was also found present in the said house and brought to the police station for interrogation.



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8. During the interrogation, the petitioner is stated to have admitted to his complicity in the narcotic trade along with his brother, Shailender. He disclosed that the *heroin* was procured from Nigerian nationals residing in Uttam Nagar and was supplied to various individuals including one Mohan, resident of Jharoda, Delhi and others in the Delhi/NCR region. The applicant was arrested on 16.11.2022. From his residence, documents relating to three properties, allegedly purchased from drug proceeds, were seized through a seizure memo.

9. Pursuant to further interrogation of Shailender, he disclosed that 1 kilogram of *heroin* had been kept at the shop of the applicant located at E-117, Om Vihar, Phase V, Uttam Nagar, Delhi. A search was conducted at the said premises, and at the pointing out of the petitioner, 1 kilogram of *heroin* was recovered from an empty water tank.

10. On 17.11.2022, the applicant was produced before the Court and four days' police custody remand was granted. During this period, one Nigerian national, Chimunya Levi Chukwunde, resident of Flat No. 05, House No. F-51, Plot No. 42, 2nd Floor, Block F, Hastal Vihar, Uttam Nagar, Delhi, stated to be a key supplier in the chain, was apprehended on the basis of disclosures made by Shailender and the petitioner. Upon serving notice under Section 50 NDPS Act, a search of his house led to the recovery of 500 grams of *heroin*. On the same day, one Mohan Babu Gupta, resident of Geetanjali Enclave, Jharoda Kalan, Delhi, was arrested at the instance of the petitioner.



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From his Maruti Brezza (DL2CAZ5036), 360 grams of heroin was recovered from the dashboard.

11. During his interrogation, Mohan Babu Gupta disclosed that he used to procure *heroin* from Shailender and the petitioner, and supplied the same to various individuals including Jaipal (resident of Mohali, Punjab), Narendra Tiwari (resident of Mangolpuri, Delhi), and others.

12. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as no recovery of any contraband was ever affected from or at the instance of the petitioner. He only came to be involved in the present case when the investigation agency conducted a raid at the house of his brother.

13. The learned counsel for the petitioner submits that the aforementioned FIR, registered on 15.11.2022, states that secret information was received on that date, which led to the investigation. However, it is also the case of the investigating agency that the petitioner's involvement came to light pursuant to intercepted voice communications, which, significantly, pertain to July, September, and October 2022, well before the aforementioned FIR was even registered. He submits that it cannot be contended that secret information received on 15.11.2022 led to the unraveling of an involvement already discerned from telephonic interceptions dating back several months.

14. The learned counsel for the petitioner submits that the Co-accused, namely Jaipal was granted Regular Bail by this Court *vide*



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the Order dated 09.01.2025 and keeping in mind the principle of parity, the petitioner be granted Regular Bail.

15. The learned counsel submits that Charges in the present case were framed on 10.07.2024, under Section 29 of the NDPS Act and since then, not a single witness has been examined, although 29 witnesses have been cited by the prosecution. All these witnesses are either police officials or expert witnesses. There are no public witnesses in the case. In view of this, the possibility of the petitioner influencing the witnesses, he submits, thus, does not arise. It is also apparent that the trial is likely to take considerable time.

16. To conclude, he submits that the petitioner has already been granted *interim* bail on several occasions on medical grounds and has, each time, surrendered before the jail authorities upon expiry of the bail period. His conduct indicates that there is no apprehension of him fleeing from justice and therefore, he granted regular bail.

17. *Per Contra*, the learned APP appearing on behalf of the State submits that the Call Detail Records (CDRs) of the mobile number used by the applicant reflect consistent connectivity and communication with other members of the alleged narcotic syndicate, namely Chimuanya Levi Chukwunede, Mohan Babu Gupta, and Jaipal, thereby indicating an established association.

18. She submits that intercepted voice calls also capture conversations between the applicant and the aforementioned co-accused persons. The prosecution claims that it was on the instance of the applicant that co-accused Mohan Babu Gupta was apprehended, from whose possession 360 grams of heroin was recovered. Further,



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the FSL report is stated to have confirmed a match between the voice samples of the applicant and the intercepted voice recordings. Based on the material collected during investigation, it is submitted that the applicant is a key operative in the syndicate, responsible for receiving *heroin* from accused Chimunya Levi Chukwunede and supplying it further to Mohan Babu Gupta and others.

19. Lastly, the learned APP submitted that all mandatory provisions under the NDPS Act have been complied with, and the evidence on record is sufficient to *prima facie* establish the petitioner's involvement. Accordingly, the prosecution opposes the present application for bail and prays for its dismissal.

20. To begin with, it may be noted that the petitioner is seeking parity with the co-accused Jaipal, who has been released on bail *vide* the Order dated 09.01.2025 passed by this Court. The learned counsel for the petitioner vehemently submits that the co-accused Jaipal was arrested on the basis of a disclosure statement and pursuant to his arrest, no recovery of any contraband was made from his possession. In similar circumstances, the learned counsel submits, no recovery has been made from the possession of the petitioner and he has been arrested on the basis of disclosure statement made by his brother namely Shailender.

21. The learned counsel further submits that the prosecution has heavily relied upon certain conversations between the petitioner and the co-accused, in order to allege that he was a part of the conspiracy in procuring, distributing and selling of the contraband; however, the



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said incriminating circumstance is not sufficient to decline the bail, which can be proved during trial.

22. To appreciate the aforementioned submissions of the learned counsel, the status report as well as the record has been meticulously perused, apart from having heard the submissions of the parties.

23. Undoubtedly, the petitioner was arrested at the disclosure statement of the co-accused namely Shailender, brother of the petitioner, however, after his arrest, the said co-accused had got recovered 1 kg of *heroin* from an empty water tank at the shop of the petitioner. Moreso, on the basis of the disclosure statement of the petitioner and his brother, the alleged main source of supply of *heroin*, co-accused Chimuanya Levi Chukwunade, a Nigerian national was arrested and during the search of his house, 500 gm of *heroin* was recovered. Furthermore, in pursuance of the disclosure statement of the petitioner, another co-accused namely Mohan Babu Gupta, a receiver of *heroin* was arrested and 360 gm of *heroin* was recovered from the dashboard of his car.

24. The learned APP strongly relies upon the CDR connectivity of mobile phone of the petitioner with other co-accused, specifically with co-accused Chimuanya Levi Chukwunade, Mohan Babu Gupta and Jaipal and submits that they have been found to be in touch with each other and also brought to the notice of this Court the record of the intercepted voice calls of the petitioner with the above mentioned accused persons. She submits that the voice of the petitioner matched with the intercepted voice calls as per the FSL results.



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25. Further, as per the transcripts of the intercepted calls on 10.09.2022 and 20.10.2022, the petitioner was found to be in touch with the co-accused Chimuanya Levi Chukwunade, involved in conversation with respect to the alleged contraband. Moreover, on 07.11.2022, the petitioner was in touch with co-accused Mohan Babu Gupta through his mobile phone and the intercepted call displays the alleged conversation with respect to the contraband. In addition to this, as per the Nominal Roll, the petitioner is also involved in another case bearing FIR No. 266/2019 for the offences under Section 419,420,120B and 511 of the Indian Penal Code, 1860, registered at Police Station Uttam Nagar.

26. In view of the above facts and circumstances, the petitioner *prima facie* seems to be involved in organized narcotic network and had been frequently in touch with the main supplier of the contraband and with the receiver of the contraband. At his instance, two other co-accused persons were arrested from whose possession commercial quantity of *heroin* i.e. 500 gm and 360 gm respectively was recovered, coupled with the fact that the petitioner is not having clean antecedents and is involved in another criminal case. The petitioner is one of the links in the narcotic syndicate, involved in procurement and distribution of Narcotics. The charge has been framed under Section 29 of the NDPS Act vide the Order dated 10.07.2024 and the trial is underway.

27. When an accused is alleged to be involved in a narcotic network, the bar under Section 37 of the NDPS Act assumes heightened significance. The involvement in an organized network



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indicates a deeper and more structured participation in the commission of the offence, thereby raising serious concerns about the potential for reoffending, tampering with evidence, or influencing witnesses if released on bail. In such cases, the Court is required to apply the twin conditions under Section 37 of the NDPS Act: first, that there must be reasonable grounds for believing that the accused is not guilty of the offence, and second, that he is not likely to commit any offence while on bail. Mere assertions or absence of recovery from the accused may not suffice when the material on record *prima facie* discloses a nexus with a narcotic network. The gravity of the offence, coupled with the organized nature of the criminal activity, justifies a more cautious approach in the grant of bail under the NDPS Act.

28. Therefore, at this stage, it is not a fit case where the petitioner can be granted bail.

29. The bail application is, accordingly, dismissed.

SHALINDER KAUR, J

APRIL 21, 2025/ss/FRK

Click here to check corrigendum, if any