

Bail Matters 705/2025
STATE Vs. MANISH
FIR No. 390/2022
PS- (Kalindi Kunj)
u/s 20/29/61/85 of NDPS Act

Dr. TARUN SAHRAWAT
ASJ-04/Special Judge (NDPS)
South-East District, Saket Courts,
New Delhi

19.05.2025

File taken up today on an application under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023, filed on behalf of the applicant/accused Manish for grant of regular bail.

Present : Sh. S. K. Kain, Ld. Addl. PP for the State.
Sh. Aditya Agarwal and Ms. Kajol Garg, Ld.
Counsel for the applicant/accused.

1. Vide this order, I shall adjudicate upon the regular bail application filed on behalf of the applicant/accused Manish. Arguments were heard at length, the gist whereof is discussed hereunder.

2. Ld. Counsel for the applicant/accused submitted that the applicant/accused has been languishing in JC since 25.04.2023 and that he has been falsely implicated in the present case as he has nothing to do with the alleged offences. Ld. Counsel further submitted that the applicant/accused was arrested merely on the disclosure statement of co-accused and that nothing incriminating has been recovered either from the possession of the applicant/accused or at his instance. Ld. Counsel further submitted that IO has shown the previous involvements of applicant/accused in two other cases of similar in nature, however, in one of the case, the applicant/accused has already been acquitted and in second matter, regular bail has been



granted to him and that he is not a previous convict. Ld. Counsel further submitted that a considerable duration has lapsed subsequent to the last dismissal of the bail application filed by the applicant/accused and each day spent in custody can provide a new cause of action for a bail application. Ld. Counsel further submitted that in the present matter, investigation has already been completed, chargesheet has been filed and charges have also been framed. Thus, accused ought to be granted bail and he is ready to abide by all the conditions imposed upon him by this court. In support of his submissions, learned counsel placed reliance on the following judgments:

- i). **Kanchaman Yonjan vs. State (Govt. of NCT of Delhi)**
Bail Application No. 2845 of 2023;
- ii). **Aarif vs. State (NCT of Delhi) Bail Application No. 4678 of 2024;**
- iii). **Toofan Singh vs. State of Tamil Nadu (2021) 4 SCC 1 CrI. Appeal No. 152 of 2013; and**
- iv). **Amit Ranjan vs. Narcotics Control Bureau, Delhi**
Bail Application 1189 of 2020.



3. *Per contra* Ld. Addl. PP for the State vehemently opposed the bail application citing the gravity of the offences as one of the main grounds. Ld. Addl. PP further submitted that the recovery in the present case is of commercial quantity. Ld. Addl. PP further submitted that there is no material change in the circumstances since the dismissal of the previous regular bail application of the applicant/accused. Ld. Addl. PP further submitted that accused is the source who had been supplying the

'ganja' to various places. Ld. Addl. PP further contended that the 'Uber car' in which 'ganja' was recovered, was booked by the applicant/accused herein. Ld. Addl. PP also contended that CDR analysis shows that accused was in continuous touch with the co-accused person. Ld. Addl. PP also submitted that prosecution witnesses are yet to be examined. Ld. Addl. PP thus, submitted that accused ought not to be granted bail.

4. I have heard the arguments addressed by the opposite parties and perused the record.

5. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment, the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

6. During the course of arguments, Ld. Addl. PP for the State contended that in this matter, the earlier regular bail application of the applicant/accused has already been dismissed by this court vide order dated 22.01.2025 merely on the ground that the accused person had previously been involved in two other cases of NDPS Act and that the material prosecution witnesses are yet to be examined. Ld. Addl. PP further pointed



out that there is no change in the circumstances till date from the date of dismissal of the previous bail application. On this, Ld. Counsel for the applicant/accused submitted that the Hon'ble Superior Courts in a catena of judgments have observed that every day spent in custody can give a new cause of action for successive bail applications under certain circumstances and as such, each additional day in custody may be considered as a change in circumstances and in support of the same, learned counsel placed reliance on **Kanchaman Yonjan (supra)**. Further, Ld. Counsel for the applicant/accused submitted that admittedly, the applicant/accused was previously involved in two other NDPS cases, however, in one of them, applicant/accused has already been acquitted vide judgment dated 24.02.2023 passed by the court of Ld. ASJ, Special Court, NDPS, District Agra and in the second case registered against the applicant/accused, he has already been granted bail by the Court of Ld. ASJ, Faridabad.



7. Further, Ld. Counsel for the applicant/accused submitted that the case of the prosecution is predicated only on the disclosure statement and the CDR connectivity of the co-accused with the present applicant/accused and that no recovery as such, has been effected from the applicant/accused or at his instance. Further, Ld. Counsel for the applicant/accused placed reliance upon the case of **Aarif (supra)**, wherein the Hon'ble High Court observed as under:

“10. Admittedly, there is no recovery of the contraband from the possession of the petitioner. Prosecution is mainly relying on

the CDR connectivity. In the case of Azad vs. State of GNCT of Delhi [2023 SCC OnLine Del 1769], it has been held that "CDR data can only be taken as supporting or corroborative piece of evidence and conviction cannot be made solely on the basis of CDR data". Thus, evidentiary value of CDRs can only be considered during the trial and not at the stage of consideration of bail application. In this regard, reliance may be placed on the decision of the Supreme Court in State (By NCB) Bengaluru vs. Pallulabid Ahmad Arimutta [2022 12 SCC 633]. The relevant paragraph of which reads as under:-

"12.The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial."



8. Further, it would also be pertinent to mention that the Hon'ble Supreme Court in **Man Mandal v. State of W.B.**, 2023 SCC OnLine SC 1868 granted bail to the petitioners on the ground that they had undergone almost 2 years and the trial is not likely to be concluded in near future. Also, in **Dheeraj Kumar Shukla v. State of V.P.**, 2023 SCC OnLine SC 918, the Hon'ble Supreme Court dispensed the rigors of section 37 of NDPS Act and granted bail to the petitioner therein. Relevant para of the said judgment is extracted below:-

"3. It appears that some of the occupants of the 'Honda City' Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the

petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed."

9. In the present case, it is evident that the trial is likely to take long time. Speedy trial in the circumstances does not seem to be a possibility. The applicant cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time. Further, in the present case, all the prosecution witnesses are police witnesses.

10. Considering the aforementioned circumstances and taking into the account that accused is in custody since 25.04.2023 i.e. for more than 2 years, and the trial is likely to take a long time and the fact that so far as the dismissal of the previous regular bail application of the applicant/accused, therein it was observed that accused was previously found involved in two other similar cases in nature, however, as pointed out by the learned counsel, in one case, he has already been acquitted and in the other case, he has been granted regular bail couple of years ago, I deem it fit to grant bail to the applicant/accused Manish, on his furnishing personal bond with surety bond of Rs. 1,00,000/- with two sureties in the like amount each, subject to following conditions:

- i) The applicant/accused shall not leave the country without the prior permission of the court;
- ii). The applicant shall provide his permanent address to the court. The applicant shall intimate the court by way of an



affidavit and to the IO regarding any change in the residential address;

iii) The applicant shall appear before the court as and when the matter is taken up for hearing;

iv) The applicant shall also furnish his mobile numbers and mobile numbers of his surety to the IO concerned, which shall be kept in a working condition at all times and shall not be switched off or changed without prior intimation to the IO concerned.

v) The applicant shall not communicate with or come in contact with any of the prosecution witnesses or tamper with the evidence of the case while being released on bail.

11. Needless to say, the above-mentioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the regular bail application stands disposed of.

12. In compliance of **Sanjay Singh Vs. State (Govt of N.C.T of Delhi) Writ Petition Criminal 974/2022**, copy of this order be sent to concerned Jail Superintendent to convey the order to inmate.

13. Copy of this order be given dasti.



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ASJ-04 & Spl. Judge (NDPS) (South-East)
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