

Bail Matter: 833/2025
State Vs. Shahanshah
FIR No. 468/2025
PS: New Usmanpur
U/s: 18/20/29 NDPS Act

07.11.2025

**ORDER ON APPLICATION FOR GRANT OF
ANTICIPATORY/PRE-ARREST BAIL FILED ON BEHALF
OF THE APPLICANT/ACCUSED SHAHANSHAH**

1. This order of mine shall dispose of application for anticipatory/pre-arrest bail filed on behalf of the applicant /accused Shahanshah.
2. I have already heard the counsel for the applicant /accused and the Ld. Addl. Public Prosecutor for State.
3. Ld. Counsel for the applicant/accused Shahanshah submitted that police officials of PS New Usmanpur are trying to implicate the present applicant/accused in the present case and served a notice u/s. 67 NDPS Act to the applicant to join the investigation, therefore, the present applicant/accused is having apprehension that he may be implicated in the present case and submitted that neither the name of the present applicant came up in the present FIR, nor there is any recovery from him, even the applicant/accused has no role to play in the present case and also submitted that the present applicant/accused has call connectivity with the co-accused persons, because all of them belong to the same village and are neighbours, but, there is neither any monetary transaction/chats, nor anything incriminating to implicate the present applicant/accused in the present case and

prayed for grant of anticipatory bail to the applicant/accused in the present case.

4. Ld. Counsel also relied upon the judgments in cases, **Deepak Nagiya v. State, Bail Appln. 1716/2023 dated 13.09.2023; Deepu @ Paras v. State, Bail Appln. 4299/2023 dated 30.01.2024; P. Vijayi Parav v. NCB, Bail Appln. 386/2024 dated 02.02.2024; Mohd. Irshad v. State, Bail Appln. 994/2022 dated 05.05.2022; Vishal Jaiswal v. State, Bail Appln. 3254/2025 dated 19.09.2025; Pascal Ezeigbo @ Prince v. State, Bail Appln. 3494/2024 dated 31.01.2025 and Shilpa v. State, Bail Appln. 2836/2025 dated 31.07.2025.**

5. On the other hand, Ld. Additional Public Prosecutor for the State vehemently opposed the present application for anticipatory bail and submitted that the applicant/accused alongwith other co-accused persons used to supply Ganja in Delhi after procuring the same from Badayun, U.P. There is CDR connectivity between the present applicant/accused and other co-accused persons and also submitted that the present applicant/accused has committed the offences u/s. 18/20(B)/29 NDPS Act alongwith the co-accused person, so, he does not deserve the concession of anticipatory bail and prayed for dismissal of the present application under consideration.

6. In his reply IO has submitted that notice u/s. 67 NDPS Act was given to the applicant/accused, but, he did not join the investigation and submitted that detailed interrogation of the present applicant/accused regarding the recovered contrabands in the present case, is required and other co-accused

Ravi is also yet to be arrested, but, the present applicant/accused is absconding in the present case. As per the additional reply filed on behalf of the IO, the applicant/accused has joined the investigation, but he did not handover his mobile to the IO, nor did he co-operate in the investigation.

7. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Addl. PP for State and perused the record.

8. In the present case, 610 grams Opium is alleged to have recovered from the joint possession of accused Nadir and Dansih. 3.700 kgs Ganja is alleged to have recovered from the possession of accused Amir. As per the reply filed by the IO, the name of the present applicant/accused was surfaced during the disclosure statements of co-accused Nadir and Amir.

9. The Hon'ble Supreme Court of India in case, **Tofan Singh Vs. State of Tamil Nadu, 6 (2021) SCC 1** has also observed that:

“a confessional statement recorded under section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act.”

10. The Hon'ble High Court of Delhi in case, **Nadeem Chaudhary Vs. State of NCT of Delhi** (Bail Application No. 39/2022) has observed that:

“The object of Jail is to secure the appearance of the accused persons during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take

considerable time. The presence of the accused can be secured at the time of trial by putting appropriate conditions”.

11. The Hon’ble High Court of Delhi relying upon the case, **Deepak Yadav V. State of U.P.**, (2022) 8 SCC 559 has observed that:

“Moreover, it is settled law that this Court at the stage of granting bail to the applicant is only to look into the (i) the nature and gravity of the offences/charges coupled with the severity of punishment in case of conviction; and (ii) if there is any chances of the accused absconding once out of bail; and (iii) if there is a reasonable apprehension of the accused influencing the witnesses or tampering the records when released on bail; and (iv) the past conduct and previous record of the accused as he should neither be a threat to the society of which he is going to be a part of once again nor there should be any change of his repeating the same or indulging in any other offence; and (v) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; and (vi) behaviour, means, position and standing of the accused in the society”.

12. The Hon’ble High Court of Delhi in another case, **Raghav Thakur Vs. State** (Bail Application No. 1397/2023) has also observed that:

“The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. Apart from the seriousness of the offence, other factors also have to be borne in mind while considering the bail application. Delay in commencement and/or conclusion of trial is also to be taken into account and the accused cannot be kept in custody for indefinite period, if the trial is likely to take long time”.

13. In the present case, investigation is complete and main chargesheet has already been filed. However, the FSL result regarding the alleged recovered contraband is still awaited.

14. Bare perusal of the record also shows that in the present case, co-accused persons namely Nadir, Amir and Danish have already been granted bail, as the recovery of contrabands effected from them, was intermediate. So far as the present applicant/accused is concerned, as per the IO, the evidence against the present applicant/accused are the statement of co-accused persons u/s. 67 NDPS Act and the CDR connectivity between the present applicant/accused and other co-accused persons. However, the relevancy and evidentiary value of CDRs between the accused persons shall be ascertained only during trial, and this cannot be the sole criteria to send the applicant /accused behind the bars, when he has already joined the investigation.

15. Moreover, no previous involvement of the present applicant/accused in any criminal case has been found. On inquiry from the IO, he failed to explain as to for what purpose, the custody of the applicant/accused is required in the present case. It is also not understandable, as to if, the IO had the knowledge of involvement of present applicant/accused in the present case and if the applicant/accused was absconding, then why no steps were taken by the IO for issuance of warrants against the applicant/accused, nor any other coercive steps have been taken by the IO against the present applicant.

16. I have gone through the judgments relied upon by the Ld. Counsel for the applicant/accused. Same squarely apply in the present case, so far as the case of the present applicant /accused is concerned.

17. Considering all the facts and circumstances of the present case, the fact that in the present case, the applicant /accused has already joined the investigation, main chargesheet has already been filed, FSL result is still awaited and it will take some time in concluding the trial and that co-accused persons namely Nadir, Amir and Danish, from whom, recovery of contrabands was effected, have already been granted bail in the present case, IO has failed to show as to for what purpose custody of the applicant/accused is required and no previous involvement of the present applicant/accused in any other case, has been found, this applicant/accused Shahanshah, in the event of his arrest, is ordered to be released on bail on furnishing personal bond in the sum of Rs.50,000/- with two sureties of like amount to the satisfaction of the IO/SHO concerned and also subject to the following conditions:

- (1). He will handover his mobile phone to the IO, if IO desires so.
- (2). He will join the investigation as and when he will be called by the IO/SHO and he will co-operate in the investigation.
- (3). He will provide his all the mobile phone numbers and he will remain his mobile phone switched 'ON' all the times.

(4). He will not come in contact with any of the witnesses of the prosecution.

(5). He will not tamper with the evidence of the prosecution.

(6). He will not be involved in any other similar offence in future.

18. In case, if he violates any of the above conditions, the prosecution will be at liberty to file application for cancellation of anticipatory bail of this accused.

19. In the above said terms, the application for grant of anticipatory bail filed on behalf of the applicant/accused Shahanshah stands **allowed**.

20. Copy of this order be given dasti.

(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/07.11.2025