

Bail Matters 1593/2025
STATE Vs. SADDAD ALAM
FIR No. 390/2022
PS- (Kalindi Kunj)
u/s 20/29/61/85 of NDPS Act

01.09.2025

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

Present : Sh. S. K. Kain, Ld. Addl. PP for the State.
Sh. Aditya Aggarwal (through VC) and Ms. Manvi
Gupta, 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 Saddam Alam. 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 15.08.2022 i.e. for more than 3 years. Ld. Counsel further submitted that the applicant/accused 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 had not filed any regular bail application since the last dismissal on 28.11.2023 and that more than one year has been lapsed after the dismissal of his previous regular bail application and recently, charges have also been framed against the accused on 16.01.2025. Ld. Counsel further submitted the the Hon'ble High Court while relying on the judgment of Hon'ble

Apex Court as “**Kalyan Chandra Sarkar vs. Rajesh Ranjan and Another (2005) 2 SCC 42**” observed that each day spent in a judicial custody is itself is a change in circumstance. Ld. Counsel further submitted that there are catena of judgments which state that the Bar of Section 37 of NDPS Act would not be applicable, when the applicant/accused has suffered a reasonably long period of incarceration. Ld. Counsel further submitted that in the present matter, charges have already been framed and matter is pending at the stage of prosecution witnesses, and therefore, no fruitful purpose would be served by keeping the applicant/accused behind the bars. Ld. Counsel also submitted that in the present matter, co-accused Manish has already been granted bail vide order dated 19.05.2025. Ld. Counsel further submitted that the applicant/accused has one more prior involvement in case FIR No. 85/2018, u/s 8/20 of NDPS Act, PS Vishakapatnam in which the applicant/accused is on regular bail. Ld. Counsel thus, submitted that applicant/accused ought to be granted bail and he is ready to abide by all the terms and conditions imposed upon him by this court. In support of his submissions, learned counsel placed reliance upon the following judgments:

i). Saurav Jain and Another vs. ABP Design and Another (2021) SCC OnLine SC 552;

ii). Kanchaman Yonjan vs. State Bail Application No. 2845 of 2023;

iii). Gaus Mohammad vs. The State (NCT of Delhi) Bail Application No. 888/2024;

iv). Rajender Prasad Sharma vs. NCB Bail Application No. 2291 of 2023;

v). Naeem Ahmed Alias Naim Ahmad vs. Govt. of NCT of Delhi Criminal Appeal No. 1247 of 2024;

vi) Jai Kishan Pandey @ Chikna vs. State NCT of Delhi Bail Application No. 3055 of 2024;

vii) Edith Namirembe vs. Customs Bail Application No. 3267 of 2023;

viii). Dheeraj Kumar Shukla vs. The State of Uttar Pradesh Special Leave to Appeal (Crl.) No. 6690 of 2022;

ix). Pallab Senapati vs. The State of West Bengal SLP (Crl.) No. 14344 of 2024.

3. *Per contra*, Ld. Addl PP for 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 allegations against the applicant/accused are serious in nature. He also submitted that in the present matter, commercial quantity of contraband i.e. 42.25 kg of ‘ganja’ and 14.120 kg of ‘poppy straw’ were recovered. Ld. Addl. PP further submitted that there is a CDR connectivity between the applicant/accused and the co-accused. Ld. Addl. PP also submitted that the applicant/accused has also been found previously involved in similar case of NDPS Act. Ld. Addl. PP further submitted that the prosecution witnesses are yet to be examined in this matter. Ld. Addl. PP thus, submitted that bail ought not to be granted to the applicant/accused and there is strong possibility that if he is granted bail, he may again indulge in similar criminal case.

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, it was brought to the fore that in this matter, investigation has been completed, chargesheet has been filed and charges have also been framed and the matter is at the stage of prosecution evidence. The accused has been incarcerated in JC since 15.08.2022 i.e. for more than 3 years. Further, the trial is likely to take a considerable long time. Speedy trial in such circumstances does not seem to be a possibility. Besides the fact that, the prosecution has shown that the applicant/accused has been found previously involved in case FIR No. 85/2018, u/s 8/20 of NDPS Act, PS Vishakapatnam, however, he has been enlarged on bail in the said case.

7. In the case of **Mohd. Muslim v. State (NCT of Delhi) :2023 SCC OnLine SC 352**, the Hon'ble Apex Court has

reiterated the law in regard to Section 37 of the NDPS Act as under:

“20. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.”

8. Further, it would be apposite to go through the relevant extract of **Sanjay vs. The State NCT of Delhi (Bail Application No. 3710/2023)**, wherein the Hon’ble High Court observed as under:

“46.As noted above, absence of independent witness may not vitiate the trial, however, it is open for the prosecution to explain the said absence. With regard to whether prejudice has been caused to the petitioner herein, prima facie, I am of the view that, while considering the bail application, benefit must be extended to the petitioner as in the chargesheet, only, a bald averment is made that 4-5 passers-by were asked to join but they refused citing their justified compulsions. The said refusal must be recorded in writing and signed by such person which is not done in the

present case. In addition, the chargesheet is also devoid of any averment that if any notice under section 100 (8) of CrPC was given to the passers-by and also no efforts were made to note down the details of such passers-by.

54. To grant bail in NDPS Act, the accused person has to cross the hurdle of twin conditions mentioned in section 37 of NDPS Act. Time and again, the Hon'ble Supreme Court in catena of judgments has laid down that the twin conditions can be relaxed provided the accused person has undergone substantial period of incarceration and the trial is unlikely to end in near future. In addition, the accused person has a right to speedy trial which flows from Article 21 of Constitution of India."

9. 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."

10. Considering the aforementioned circumstances and taking into the fact that accused is in custody since 15.08.2022 i.e. for more than 3 years, and further, the fact that none of the prosecution witness has been examined yet and it is unlikely that trial will be concluded in near future and trial will take long time, I deem it fit to grant bail to accused Saddam Alam, on his furnishing personal bond with surety bond of Rs. 50,000/- 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.

(Dr. TARUN SAHRAWAT)
ASJ-04 + Spl. Judge (NDPS),
South East District, Saket Court,
New Delhi /01.09.2025