$~106 & 107

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

% ***Date of Decision: 25.11.2026***

\# **CNR No. DLHC010301112026**

\+ **BAIL APPLN. 2672/2026 & CRL.M.A. 20347/2026**

SARABJEET SINGH .....Petitioner

Through: Mr. J.S. Kushwaha, Ms. Tanya Kushwaha, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Aashneet Singh, APP for the State.

107

\# **CNR No. DLHC010302642026**

\+ **BAIL APPLN. 2682/2026 & CRL.M.A. 20377/2026**

VARINDER @ SONU .....Petitioner

Through: Mr. Shubham Upadhyaya, Adv.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Aashneet Singh, APP for the State.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*ORAL*)

1. By way of the present applications filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 439 of the Code of Criminal Procedure), the applicants/petitioners seek regular bail in FIR No. 36/2025, dated 10.02.2025, registered at P.S. Crime Branch, New Delhi, under Section 21(c) of the Narcotic Drugs and Psychotropic

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Substances Act, 1985 (hereinafter "*NDPS Act*"). Subsequently, the chargesheet under Sections 21/29 of the NDPS Act against the applicants/petitioners was filed.

2. The factual conspectus of the present case is that on 09.02.2025, a team of the ANTF, Crime Branch, intercepted co-accused Faheem Farooq near the DJB Bus Stand, Jal Vihar Road, Lajpat Nagar, Delhi, where he allegedly threw down a bag containing 996 grams of Heroin. Thereafter, the aforesaid FIR came to be registered. This followed a series of arrests of various co-accused persons based on disclosure statements of co-accused.

3. Sarabjeet Singh, *i.e.*, applicant/petitioner in Bail Appln. 2672/2026, was apprehended on the basis of a disclosure statement of co-accused Salwinder, who stated that he handed over a part of the Heroin to the applicant for sale. While nothing was recovered from the applicant's/petitioner's person, three mobile phones, four empty mobile phone boxes, two mobile phone bills, and a diary containing the contact numbers of alleged drug peddlers were seized from the applicant's/petitioner's residence.

4. Varinder, *i.e.*, applicant/petitioner in Bail Appln. 2682/2026, was arrested because the applicant's/petitioner's mobile number surfaced in the CDR/IPDR analysis of the phones of co-accused Parminder. Before his arrest, he produced two mobile phones from his house, which were seized.

5. With regard to the arrest, it is noted that Sarabjeet Singh (applicant/petitioner in Bail Appln. 2672/2026) was arrested on 13.03.2025 and Varinder (applicant/petitioner in Bail Appln. 2682/2026) was arrested on 21.03.2025. Further, it is an admitted position that while the chargesheet has been filed, the charges have not yet been framed.

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6. The parties have been heard. I have given my thoughtful consideration to the matter.

7. Since it is the case of the prosecution that the applicants were involved in a conspiracy (Section 29 of the NDPS Act) involving a commercial quantity of Heroin, the rigours of Section 37 of the NDPS Act will be attracted.

8. In ***State of Punjab v. Balraj Singh @ Billa*, 2026 INSC 618**, the Supreme Court observed as under:

> "*17. Keeping in view the above expositions of law, we now proceed to examine the impugned order.* ***The abovementioned decisions of this Court display the consistent view that when it comes to cases involving commercial quantity of narcotics, the mandatory requirements of Section 37 ought to be considered****. It is not in dispute that the case at hand, involves commercial quantity.* ***In such a scenario, consideration and reference to the twin conditions enumerated under Section 37 of the NDPS Act was mandatory****. Upon a bare perusal of the impugned order, it is evident that there has been no consideration at all by the High Court on the twin conditions. In such a scenario, the impugned order cannot be sustained in the eyes of law.*"
>
> (emphasis supplied)

9. While interpreting the first twin-condition laid down under Section 37(1)(b)(ii), the Supreme Court in ***Narcotics Control Bureau v. Mohit Aggarwal*, (2022) 18 SCC 374**, observed as under:

> "*14. To sum up,* ***the expression "reasonable grounds" used in clause (b) of sub-section (1) of Section 37 would mean credible and plausible grounds for the court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the court to believe that the accused person would not have committed such an offence.*** *Dovetailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.*

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15. ***We may clarify that at the stage of examining an application for bail in the context of Section 37 of the Act, the court is not required to record a finding that the accused person is not guilty. The court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not.*** *The entire exercise that the court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail.*"

(emphasis supplied)

10. The Supreme Court in ***Mohd. Muslim v. State (NCT of Delhi)*****, (2023) 18 SCC 166**, made similar observations as under:

"*19. The conditions which courts have to be cognizant of are that there are reasonable grounds for believing that the accused is "not guilty of such offence" and that he is not likely to commit any offence while on bail.* ***What is meant by "not guilty" when all the evidence is not before the court? It can only be a prima facie determination. That places the court's discretion within a very narrow margin.*** *Given the mandate of the general law on bails (Sections 436, 437 and 439 CrPC) which classify offences based on their gravity, and instruct that certain serious crimes have to be dealt with differently while considering bail applications,* ***the additional condition that the court should be satisfied that the accused (who is in law presumed to be innocent) is not guilty, has to be interpreted reasonably.*** *Further the classification of offences under the Special Acts (the NDPS Act, etc.), which apply over and above the ordinary bail conditions required to be assessed by courts, require that the court records its satisfaction that the accused might not be guilty of the offence and that upon release, they are not likely to commit any offence. These two conditions have the effect of overshadowing other conditions.*

***

21. ***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***

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Signing Date:26.11.2026 12:24:51

> ***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.***
> *22.* ***The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved.*** *The judgments of this Court have, therefore, emphasised that the satisfaction which courts are expected to record i.e. that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Mallik) …*"
>
> (emphasis supplied)

11. It can, therefore, be summarised that this Court is neither required to pass a ruling of acquittal nor is it required to meticulously weigh the evidence, as the bail proceedings cannot be turned into a mini-trial. This Court needs to look at the material on record in a broad conspectus to reach a conclusion as to whether there exist plausible grounds to believe that the applicant is not guilty. It is in this context that the present applications are considered.

12. At this stage, the prosecution places reliance on two categories of evidence to bring home the allegation of conspiracy (Section 29 of the NDPS Act): (i) the disclosure statements of the applicants and the co-accused, and (ii) the Call Detail Records (CDRs) of the applicants with other co-accused.

13. On the aspect of disclosure statements, the Supreme Court in ***Tofan Singh v. State of T.N.*****, (2021) 4 SCC 1**, *inter alia,* observed as follows:

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Signing Date:26.11.2026 12:24:51

> "*158.1. That* ***the officers who are invested with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act****, and cannot be taken into account in order to convict an accused under the NDPS Act.*
> *158.2. That a* ***statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial*** *of an offence under the NDPS Act.*"
>
> (emphasis supplied)

14. The Supreme Court in ***Mohit Aggarwal (supra)***, while relying upon ***Tofan Singh (supra)***, held as under:

> "*16. Coming back to the facts of the instant case,* ***the learned Single Judge of the High Court cannot be faulted for holding that the appellant NCB could not have relied on the confessional statements of the respondent and the other co-accused recorded under Section 67 of the NDPS Act in the light of law laid down by a three-Judge Bench of this Court in Tofan Singh, wherein as per the majority decision, a confessional statement recorded under Section 67 of the NDPS Act has been held to be inadmissible in the trial of an offence under the NDPS Act.*** *Therefore, the admissions made by the respondent while in custody to the effect that he had illegally traded in narcotic drugs, will have to be kept aside.*"
>
> (emphasis supplied)

15. In light of the aforesaid *dicta*, the disclosure statements of the co-accused and the applicants/petitioners cannot lead to an inference of guilt.

16. It would also be apposite to refer to the Supreme Court's decision in ***Narcotics Control Bureau v. Pallulabid Ahmad Arimutta*****, (2022) 12 SCC 633**, wherein the Supreme Court, while refusing to interfere with the orders granting bail under the NDPS Act, while upholding the non-reliance on the confessional statements, also noted that the CDR analysis is a matter for the

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Signing Date:26.11.2026 12:24:51

trial. The Supreme Court, *inter alia*, observed as under:

> "*12.* ***It has been held in clear terms in Tofan Singh v. State of T.N., 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. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. 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.*** *For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16-9-2019, 14-1-2020, 16-1-2020, 19-12-2019 and 20-1-2020 passed in SLP (Crl.) No. arising out of Diary No. 22702 of 2020, SLP (Crl.) No. 1454 of 2021, SLP (Crl.) No. 1465 of 2021, SLPs (Crl.) Nos. 1773-74 of 2021 and SLP (Crl.) No. 2080 of 2021 respectively. The impugned orders are, accordingly, upheld and the special leave petitions filed by the petitioner NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless.*"
>
> (emphasis supplied)

17. A Coordinate Bench of this Court on 11.05.2026, in ***Salman Khan v. State of NCT of Delhi,*** **Bail Appln. 1427/2026**, made similar observations as under:

> "13. *In fact, the Hon'ble, Supreme Court in Balwinder Singh (Binda) vs. Narcotic Control Bureau; (2024) 13 SCC 734 has held that whence there has to be a recovery/ possession from the accused who has been implicated based upon the disclosure statement of a co-accused person then there can be a sufficient reason to establish a link thereof.* ***In essence, there has to be something substantive/ more than concrete in addition to mere disclosure statement of a co-accused person showing nexus of the said accused with the activates of illicit trafficking of psychotropic substances.***
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> ***
>
> *15.* ***Though the investigation herein also reveals that there were/***

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Signing Date:26.11.2026 12:24:51

> ***are monetary transaction between the co-accused person and the applicant as also there are CDRs showing his telephonic connectivity with the co- accused persons, however, neither of them, per se, indicate anything concrete enough for this Court to come to a conclusion that the applicant was having any (direct) link in the activates of illicit trafficking of psychotropic substances and/ or with the other co-accused persons as mere contact with them is not sufficient to conclude his involvement.*** *Mere having some monetary transaction and/ or having CDR connectivity with the co-accused persons with no (substantive) corroboration in the present case, thus, pale into insignificance. At the end of the day, there is no direct nexus established as yet. They gain much significance as there is no recovery of any psychotropic substances from his end, and that too despite the disclosure statement made by a co-accused person.*"
>
> (emphasis supplied)

18. Another Coordinate Bench of this Court in ***Pushkar Pandey v. Govt. of NCT of Delhi,*** **2026:DHC:10038**, while granting bail to an accused under the NDPS Act, observed as follows:

> "*12. In the present case, indisputably,* ***there is no recovery of any narcotic substance, at this stage, from the petitioner. The petitioner has been made an accused based on the disclosure statement of the co-accused****, Omprakash Maurya, who has since been enlarged on regular bail.* ***Further, the evaluation of the financial records and the CDRs is a matter of trial and cannot be a ground to deny anticipatory bail.***
> *13. Therefore, it is difficult for this Court to conclude that the petitioner is directly involved with the recovery made from the co-accused, Omprakash Maurya, and put him to the rigours as contemplated under of Section 37 of the NDPS Act.*"
>
> (emphasis supplied)

19. Considering the *dicta* laid down in the aforesaid decisions, the CDRs of the applicants with other co-accused cannot be relied upon, at least at this stage, to establish a nexus between the applicants and the other co-accused

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Signing Date:26.11.2026 12:24:51

persons. Further, the recovery of the mobile phones and the diary, allegedly containing the contact of drug dealers, does not aid in establishing any nexus with other co-accused persons.

20. In the circumstances, in the absence of any recovery of contraband from the possession of the applicants, and since the material against the applicants consists only of disclosure statements and CDRs, this Court is of the opinion that there are reasonable grounds for believing that the applicants are not guilty of the offence alleged, within the meaning of Section 37(1)(b)(ii) of the NDPS Act. This Court has taken a similar view in Salman Khan (supra) and Pushkar Pandey (supra).

21. It is also noticed that co-accused Salwinder Singh @ Gora, on whose disclosure statement Sarabjeet Singh was implicated, has been granted bail by the learned Special Judge vide order dated 03.06.2026, on similar material. As regards the second condition under Section 37(1)(b)(ii), the pendency of one case against Sarabjeet Singh does not by itself show that he is likely to commit an offence while on bail, and Varinder @ Sonu has no other case pending against him.

22. It is also noted that, as on 28.07.2026, Sarabjeet Singh (applicant/petitioner in Bail Appln. 2672/2026) and Varinder (applicant/petitioner in Bail Appln. 2682/2026) have been in custody for around 01 year and 05 months, and 01 year and 04 months, respectively (about 1 year 8 months and over 1 year 7 months, respectively, as on date). Further, since the charges are yet to be framed, the trial is unlikely to conclude anytime soon. In regard to this, a reference may be made to the decision of the apex Court in Rabi Prakash v. State of Odisha, 2023 SCC OnLine SC 1109, wherein the Court observed as under:

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Signing Date:26.11.2026 12:24:51

> "*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.***"
>
> (emphasis supplied)

23. The Supreme Court in ***Mohd. Muslim (supra)***, *inter alia*, observed as under:

> "*22. The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The judgments of this Court have, therefore, emphasised that the satisfaction which courts are expected to record i.e. that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan Mallik).* ***Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436-A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil).*** *Having regard to these factors the Court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.*
> *23.* ***Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.*** *Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31-12-2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 prisoners in the country. Of these 1,22,852 were convicts; the rest 4,27,165 were undertrials.*"

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Signing Date:26.11.2026 12:24:51

(emphasis supplied)

24. Therefore, the prolonged incarceration of the applicants and the possibility of the trial not concluding in the near future, also weigh with this Court.

25. The State places reliance on the FIR No. 171/2018 (P.S. City Tarn Taran) under Sections 21/25/29/61/85 of the NDPS Act to emphasise that there is a case pending against Sarabjeet Singh (applicant/petitioner in Bail Appln. 2672/2026). With regard to this, the Supreme Court in ***Prabhakar Tewari v. State of U.P.*, (2020) 11 SCC 648**, held that pending criminal cases against the applicant cannot automatically deny the applicant of his right to seek bail. It was observed as under:

> "*7. ... **The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.** The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.*"

(emphasis supplied)

26. Moreover, it is also noted that Varinder (applicant/petitioner in Bail Appln. 2682/2026), as per the nominal roll, has been released on interim bail twice, and no allegation of breach of any condition has been brought on record.

27. Considering the circumstances, the present applicants, *i.e.*, Sarabjeet Singh and Varinder @ Sonu, are admitted to regular bail on furnishing personal bonds of Rs. 50,000/- each with surety of like amount each, subject

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Signing Date:26.11.2026 12:24:51

to the following conditions:

a. the applicants shall attend every hearing unless specifically exempted by the trial Court.

b. the applicants shall not leave NCT of Delhi or travel out of the country without prior permission of the Trial Court;

c. the applicants shall provide their permanent address to the Trial Court, and also the address where they will be residing during the pendency of the case;

d. the applicants shall intimate the Investigating Officer (IO) and file an affidavit before the Trial Court regarding any change in their residential address;

e. the applicants shall furnish their mobile number to the Investigating Officer (IO)/Station House Officer (SHO) concerned, which shall be kept in working condition at all times. The mobile number shall be kept switched on, and the same shall be shared with the IO. The mobile number shall not be changed without prior intimation to the IO during the pendency of the trial;

f. the applicants shall report to the IO as and when called for by the IO;

g. the applicants shall not directly or indirectly contact the complainant, any prosecution witness, and their family members;

h. the applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, or tamper with the evidence of the case, in

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Signing Date:26.11.2026 12:24:51

any manner whatsoever;

i. the applicants shall appear before the Trial Court on each and every date of hearing;

j. the applicants shall not indulge in any criminal activity during the period of bail; and

k. the applicants shall report to the concerned SHO, on the first Monday of every month at 11:00 a.m. and be discharged by 12:00 noon, after recording their presence and completion of the necessary formalities.

28. It is clarified that this Court has not expressed its opinion on the merits. The trial shall proceed without being influenced by the observations made by this Court.

29. The present petitions, along with pending applications, stand disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 25, 2026/*at/vk*

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