



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

Reserved on: February 18, 2026
Pronounced on: February 24, 2026

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+ **BAIL APPLN.4797/2025**

BABULA KHARA

...Applicant

Through: Ms. Hasin Alam, Mr. Faiz Alam, Mr. Vikrant Pandey and Ms. Khushi Ayubi, Advs.

Versus

STATE OF NCT OF DELHI

...Respondent

Through: Mr. Satish Kumar, APP, Ms. Upasna Bakshi, Adv., SI Deep Sharma, PS: NDRS

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present application under *Section 483* read with *Section 439* of the Bharatiya Nagarik Suraksha Sanhita, 2023¹, the applicant seeks grant of regular bail in proceedings arising out of FIR No.145/2023 dated 11.10.2023 registered at PS: New Delhi Railway Station² under *Sections 20/29/61/85* of the Narcotic Drugs and Psychotropic Substances Act, 1985³ as well as *Section 380* of the Indian Penal Code, 1860⁴.

2. As per FIR, complainant found an unclaimed bag in lieu of his own luggage aboard Train No.22823 Rajdhani Express when it reached NDRS,

¹ Hereinafter '*BNSS*'

² Hereinafter '*NDRS*'

³ Hereinafter '*NDPS Act*'

⁴ Hereinafter '*IPC*'



whereupon he informed the authorities and subsequently, at PS: NDRS, 16.452 kg of *ganja* was seized therefrom, and the present FIR was registered.

3. During investigation, co-accused Subhash Kumar Yadav, arrested on 16.10.2023, disclosed having purchased *ganja* from the applicant herein. As the applicant was already arrested in another FIR No.182/2023 dated 27.12.2023 registered at PS: NDRS under *Sections 20/61/85 NDPS Act*, he was arrested in the present FIR subsequently on 12.01.2024.

4. Though learned counsel for applicant has urged the issues qua the applicant not named in the present FIR, that the applicant has nothing to do with the alleged offences as no subsequent recovery or new discovery has been made from him, that he has been falsely implicated and statements made under *Section 67 NDPS Act* by the co-accused cannot incriminate him, however, his main thrust has been on the applicant not being informed the grounds of his arrest. The learned counsel drawn attention of this Court to the Arrest Memo dated 12.01.2024 which is silent of any such grounds of arrest. He submitted that since the fundamental right of the applicant under *Article 22* of the Constitution of India has been violated, his arrest was illegal, and, in terms of *Pankaj Bansal vs. Union of India & Ors.*⁵ as well as the subsequent *Prabir Purkayastha vs. State (NCT of Delhi)*⁶, *Vihaan Kumar vs. State of Haryana*⁷ and *Mihir Rajesh Shah vs. State of Maharashtra & Anr.*⁸, the applicant is liable to be granted bail. He also relied upon the

⁵ 2023 SCC OnLine SC 1244

⁶ (2024) 8 SCC 254

⁷ 2025 SCC OnLine SC 269

⁸ 2025 SCC OnLine SC 2356



decision of a Co-ordinate Bench of this Court in *Gagan vs. State (NCT of Delhi)*⁹, and, as recorded in order dated 05.02.2026 passed by this Court, upon the recent decisions of this Court in *Pahalman Budha Magar vs. State of NCT of Delhi*¹⁰ and *Lokesh Alias Manish vs. State*¹¹ in support of his arguments.

5. Learned APP, on the other hand, though opposed grant of bail to the applicant on various grounds but had no answer to the non-supply of grounds of arrest to the applicant.

6. In such a scenario, after hearing learned counsel as also the learned APP and perusing the documents on record, this Court, at the very threshold, is to consider the established legal position in case of admitted non-supply of grounds of arrest to the applicant.

7. As held by the Hon'ble Supreme Court in *Pankaj Bansal (supra)* on 03.10.2023, *meaningful* furnishing of grounds of arrest to an arrestee in writing in a language/s s/he understands is a mandatory requirement under *Article 22(1)* of the Constitution. The same has been reinforced by the Hon'ble Supreme Court in [i] *Prabir Purkayastha (supra)* wherein arrests under any Statute(s) were held to be subject to the same mandate *qua* the fundamental right of an arrestee to be informed of the grounds of his arrest so as to afford him a real opportunity of defending himself, especially against custodial remand and to seek bail, as also in [ii] *Vihaan Kumar (supra)* wherein it has been highlighted that violation of the same would also

⁹ 2025:DHC:1402

¹⁰ 2026:DHC:507

¹¹ 2026:DHC:509



tantamount to violation of the fundamental right of the arrestee under *Article 21* of the Constitution, and lastly in [iii] *Mihir Rajesh Shah (supra)* where further safeguards have been laid down, such as production before a Magistrate within two hours in case of non-communication of grounds of arrest in writing.

8. In terms of the aforesaid, this Court has also consistently taken the same view in *Gagan (supra)*, *Pahalman Budha Magar (supra)* and *Lokesh (supra)*.

9. In the present case, a perusal of the Arrest Memo dated 12.01.2024 makes it clear that the grounds of arrest were not supplied to the applicant in writing at the time of his arrest. In fact, there is no dispute qua it by the learned APP as well. Even otherwise, the applicant was not even named in the present FIR and thereafter also no recovery of contraband of any kind has been made from him.

10. As such, without going into the merits involved, the same is sufficient for grant of regular bail to the applicant.

11. Accordingly, the applicant is granted regular bail in proceedings arising out of FIR No.145/2023 dated 11.10.2023 registered at PS: NDRS under *Sections 20/29/61/85 NDPS Act* and *Section 380 IPC*, subject to him furnishing a personal bond in the sum of Rs.50,000/- (*Rupees Fifty Thousand Only*) along with one surety of the like amount by a family member/ friend having no criminal case pending against him and further subject to satisfaction of the learned Trial Court and subject to following conditions:-



- a. Applicant shall ordinarily reside at the address as per TCR. If he so wishes to change his residential address, he shall immediately intimate about the same to the I.O. by way of an affidavit.
 - b. Applicant shall surrender his Passport, if any, to the IO within *three days* of his release. If he does not possess the same, he shall file an affidavit before the I.O. to that effect.
 - c. Applicant shall join and participate in the investigation, as and when called by the IO.
 - d. Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times.
 - e. Applicant shall not indulge in any criminal activity and shall not contact any of the prosecution witnesses, or tamper with the evidence of the case.
12. Accordingly, the present application is allowed and disposed of in the aforesaid terms.
13. Copy of this order be sent to the learned Trial Court for necessary information and compliance thereof.
14. Needless to say, observations made herein, if any, on the merits of the matter are purely for the purposes of adjudicating the present application and shall not be construed as expressions on the merits of the matter.

SAURABH BANERJEE, J

FEBRUARY 24, 2026
Ab/RS