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

% ***Date of Decision: 23rd November, 2026***

\# **CNR No. DLHC010499602026**

\+ BAIL APPLN. 4409/2026

JAWAR @ KAIF .....Petitioner

Through: Mr. Mutiur Rehman with Mr. Ayush, Mr. Nadeem, Advocates

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for the State.
SI Vikram Singh/ANS/OND.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. *(Oral)*:

1. The present application has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking regular bail on behalf of the petitioner, i.e., Jawar @ Kaif, S/o Jabbar, in connection with the First Information Report ("FIR") being *FIR No. 156/2026* dated 09th April, 2026, under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), and Section 111 of the Bharatiya Nyaya Sanhita, 2023 ("BNS"), registered at Police Station ("PS") Alipur, Outer North District, Delhi.

2. The petitioner has previously filed an application for regular bail before the Additional Sessions Judge/Special Judge, NDPS Act, Rohini Courts,

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North District, Delhi, which was dismissed *vide* order dated 05th August, 2026, in *SC 420/2026*.

3. The case of the prosecution, as emerging from the material on record, is as follows:

3.1. On 09th April, 2026, at about 09:20 AM, the Narcotics Cell, Police Post ("PP") Dariyapur, Bawana, Outer North District, Delhi, received secret information that one person, namely, Vansh, is involved in supplying smack in Delhi, and would come at about 11:00 AM, carrying smack in a bag on his back, near Budhpur Service Road, ahead of Khatu Shyam Mandir, near the Bus Stop on GT Karnal Road, from the Alipur side.

3.2. Thereafter, officials of the Narcotics Cell constituted a raiding team, which proceeded toward the aforesaid location near Budhpur Service Road.

3.3. At about 11:20 AM, a person carrying a red-coloured backpack was seen coming from the direction of Budhpur drain towards the Service Road, and was identified by the secret informer. He was subsequently apprehended by the police at about 11:25 AM and disclosed his full name as Vansh Kumar Gautam.

3.4. Upon checking the bag carried by Vansh Kumar Gautam, the police recovered one transparent polythene packet containing a light brown powdery substance, suspected to be smack, which weighed 160 grams. The recovered substance was then confirmed to be smack by the Forensic Science Laboratory ("FSL") team.

3.5. On the basis of the disclosure statement of Vansh Kumar Gautam, one of the co-accused persons, namely, Majid Ali @ Tunnu, was arrested on 10th April, 2026, and a recovery of 302 grams of smack was made from his residence.

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3.6. Pursuant to the disclosure statement of Majid Ali, the petitioner herein was traced and arrested on 17th April, 2026. He was identified by Majid Ali as the person who used to supply smack to him.

3.7. During interrogation, the petitioner disclosed that he had procured contraband on several occasions from other co-accused persons, namely, Saddam @ Gullu and Prempal, for further supply in the areas of Roorkee and Haridwar.

3.8. During investigation, it was found that Prempal was already in judicial custody in respect of another FIR registered under Sections 8/21 of the NDPS Act. As regards the other co-accused person, i.e., Saddam, a raid was conducted at his house on 17th April, 2026, and he was arrested. At his instance, 200 grams of smack were recovered from his house. Saddam also disclosed that he had procured contraband from Prempal.

3.9. Prempal was thereafter produced on 18th May, 2026, pursuant to a production warrant. He was arrested in the present case, and disclosed that he had supplied contraband to the petitioner and Saddam.

3.10. During the further course of investigation, it was also found that the petitioner was using a mobile, bearing *No. 790671787*, and was regularly in touch with Majid Ali through WhatsApp chats/calls.

3.11. Upon completion of the investigation, a Chargesheet dated 06th June, 2026, was filed by the Investigating Officer ("IO") before the Trial Court.

4. In support of the present application, the following submissions have been made on behalf of the petitioner:

5. The petitioner has no criminal antecedents, belongs to a respectable family, and has deep roots in society.

5.1. There is no evidence that connects the petitioner with the crime alleged.

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No contraband has been recovered from the petitioner, and there is no Call Detail Record ("CDR") or financial transactions for the alleged contraband between the co-accused persons and the petitioner.

5.2. Although it is the case of the prosecution that the petitioner contacted Majid Ali through WhatsApp on the mobile phone, bearing *No. 790671787*, no mobile phone has been recovered from the petitioner. Moreover, the said mobile phone belongs to someone else, namely, Sameer.

5.3. The co-accused person, namely, Prempal, has already been granted regular bail by the Trial Court *vide* order dated 05th June, 2026. The main co-accused person, namely, Vansh Kumar Gautam, has also been granted regular bail by this Court *vide* order dated 17th November, 2026.

5.4. The present FIR is pending for framing of charges before the Trial Court, and the trial is likely to take a long time to conclude, considering the nature of the allegations and the number of witnesses cited by the prosecution.

5.5. The petitioner was arrested on 17th April, 2026, and has been in judicial custody since then. Accordingly, he has already spent about 177 days, 05 months and 24 days, as an under-trial prisoner.

5.6. The continued incarceration of the petitioner during the pendency of the trial amounts to a violation of the fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India, 1950 ("Constitution").

6. Opposing the present application, learned Additional Public Prosecutor ("APP") appearing for the State has submitted that the allegations against the petitioner are serious in nature.

7. He has further submitted that the investigation has revealed the active involvement of the petitioner in an organized network engaged in the

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procurement and supply of commercial quantities of contraband.

8. In addition, he has contended that the petitioner was in regular contact with the co-accused person, i.e., Majid Ali, through WhatsApp, and Majid Ali had been apprehended with 302 grams of smack, which constitutes a commercial quantity under the NDPS Act.

9. I have heard learned counsels appearing for the parties and perused the material on record.

10. This Court notes that no contraband has been recovered from the petitioner.

11. Reliance may be placed upon the case of ***Mohd. Muslim Alias Hussain Versus State (NCT of Delhi), (2023) 18 SCC 166***, wherein, the Supreme Court, in similar facts and circumstances as the present case, has held as follows:

> *"xxx xxx xxx*
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> ***17.*** *The facts in this case reveal that the recovery of ganja was made on 28-9-2015, from the four co-accused, including Nitesh Ekka.* ***The present appellant was arrested at the behest, and on the statement of this Nitesh Ekka. The prosecution has relied on that statement, as well as the confessional statement of the present appellant; in addition, it has relied on the bank statements of Virender Singh alias Beerey, who allegedly disclosed that money used to be transferred to the appellant. As against this, the prosecution has not recovered anything else from the appellant;*** *its allegation that he is a mastermind, is not backed by any evidence of extensive dealing with narcotics, which would reasonably have surfaced. The prosecution has not shown involvement of the appellant, in any other case. Furthermore, he was apparently 23 years of age, at the time of his arrest.*
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> ***18.*** *It is an undisputed fact that two co-accused persons (who also, were not present at the time of raid and from whom no contraband was recovered) — the accused (Virender Singh alias Beerey) who allegedly transferred money to the*

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appellant's account as payment for the ganja, and the accused (Nepal Yadav alias Tony Pahalwan) from whom the original insurance papers and registration certificate of the car from which contraband was seized, was recovered [As per the counter-affidavit dated 21-2-2023 filed by the respondent State before this Court.] — have both been enlarged on bail. The appellant has been in custody for over 7 years and 4 months. The progress of the trial has been at a snail's pace : 30 witnesses have been examined, whereas 34 more have to be examined.

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.*

20. *In cases where bail is sought, the court assesses the material on record such as the nature of the offence, likelihood of the accused cooperating with the investigation, not fleeing from justice : even in serious offences like murder, kidnapping, rape, etc.* ***On the other hand, the court in these cases under such Special Acts, has to address itself principally on two facts : likely guilt of the accused and the likelihood of them not committing any offence upon release. This Court has generally upheld such conditions on the ground that liberty of such citizens has to—in cases when accused of offences enacted under special laws—be balanced against the public***

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interest.

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 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 [Union of India v. Rattan Mallik, (2009) 2 SCC 624 : (2009) 1 SCC (Cri) 831]). 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 [Satender Kumar Antil v. CBI, (2022) 10 SCC 51 : (2023) 1 SCC (Cri) 1]). 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.*

xxx xxx xxx"

(Emphasis Supplied)

12. Furthermore, in the case of ***Vinay Dua Versus State Govt. of NCT of Delhi, 2025 SCC OnLine Del 4534***, a Single Bench of this Court has observed that the absence of substantial corroboration of the disclosure statements of the co-accused persons, coupled with the clean antecedents of the applicants,

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made out a *prima facie* case for the grant of regular bail. The Court also took into account that, as in the present case, the Chargesheet had already been filed, the matter was still at the stage of arguments on charge, and the trial was likely to take considerable time to conclude. The relevant paragraphs of the judgment read as under:

> *"xxx xxx xxx*
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> ***20.*** *While the veracity of the disclosure statement against the applicants will be tested during the course of the trial, however, at this stage, it cannot be ignored that no recovery was ever effected from the applicants.*
> ***21.*** *It is argued that there are certain financial transactions and CDR connectivity between the applicants and co-accused persons. It is also argued that there are certain WhatsApp chats between the applicants and co-accused persons.*
> ***22.*** *Merely because the applicants were in regular touch with the co-accused, the same is not sufficient to establish the offence against the applicants. A coordinate bench of this Court, in the case of Dalip Singh v. State (NCT of Delhi), 2019 SCC OnLine Del 6494, had observed as under:*
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> > *"**11.** On perusal of the record, it is prima facie seen that there are two major missing links in the case of the prosecution. There is no link established by the prosecution between the petitioner with the alleged supplier Manoj.* ***Further the entire case of the prosecution, in so far as petitioner is concerned is circumstantial i.e. based solely on disclosure statement of a co-accused which is per se not admissible without there being any corroboration.*** *Prosecution has not been able to establish any connection between the subject offence and the bank accounts, where the petitioner is alleged to have been depositing money or with the holders of those accounts.* ***Merely because the petitioner has been having telephonic conversation with the co-accused, would not be sufficient to hold that petitioner is guilty of the subject offence. There is no recovery made from the petitioner.***
> > ***12.*** *I am of the view that requirement of Section 37 of the NDPS Act are satisfied. In so far as the petitioner is*

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concerned, there are reasonable grounds to believe that petitioner is not guilty of the said offence."

(emphasis supplied)

23. *Insofar as the money transactions are concerned, it is contested by the learned counsel for the applicants that the applicants are pharmacists with valid licenses and the transactions and CDR pertain to fair dealings.*

24. *Whether the financial transactions between the applicants and accused persons and the WhatsApp chats were in regard to the contraband, can only be ascertained after the entire evidence is led.*

25. This Court does not deem it apposite to comment extensively on the merits of the case when the charges are yet to be framed, however, in the absence of any substantial corroboration lending credence to the disclosure statements, the applicants have been able to establish a prima facie case for grant of bail. It is undisputed that the applicants have clean antecedents. In view of the above, this Court is of the opinion that the embargo of Section 37 of the NDPS Act does not come in the way of granting bail to the applicants.

26. It is also relevant to note that the chargesheet has already been filed in the present case. Although the applicants were only arrested in January, 2025, however, it is pertinent to note that the matter is still at the stage of arguments on charge. In such circumstances, the trial is likely going to take long to conclude.

xxx xxx xxx"

(Emphasis Supplied)

13. Similarly, it is noted that in the present case, no contraband was recovered from the petitioner. The only material relied upon by the prosecution to connect the petitioner with the alleged offence consists of the disclosure statement of the co-accused person, i.e., Majid Ali, and certain WhatsApp chats/calls attributed to the petitioner. Even assuming that the said WhatsApp chats/call are attributable to the petitioner, it is not clear whether they were in relation to the supply of contraband.

14. This Court also takes note of the fact that the petitioner has already

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undergone custody for approximately 07 months, and the overall conduct of the petitioner is satisfactory.

14.1. Further, the co-accused person, namely, Vansh Kumar Gautam, was granted regular bail by this Court *vide* order dated 17th November, 2026. The prosecution attributes a lesser role to the petitioner than to Vansh Kumar Gautam, a circumstance that also weighs in favour of the release of the petitioner on regular bail.

15. In view of the facts and circumstances of the present case, this Court finds reasonable grounds for believing that the petitioner is not guilty of the alleged offence, and that he is unlikely to commit any offence while on bail.

16. Accordingly, the present application is allowed, and the petitioner is directed to be released on regular bail in connection with *FIR No. 156/2026*, dated 09th April, 2026, under Sections 21/25/29 of the NDPS Act, registered at PS Alipur, Outer North District, Delhi, subject to the following terms and conditions:

16.1. The petitioner shall furnish a personal bond in the sum of Rs. 25,000/- (Rupees Twenty-Five Thousand only), with one surety in the like amount, to the satisfaction of the Trial Court;

16.2. The petitioner shall not indulge in any criminal activity, in any manner whatsoever;

16.3. The petitioner shall give his residential address to the IO, and shall not change his residential address without prior intimation to the IO;

16.4. The petitioner shall ordinarily reside at his address as per the prison records;

16.5. The petitioner shall, upon his release, give his mobile number to the concerned Jail Superintendent and shall keep his mobile phone switched on

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at all times. The mobile number shall not be changed, nor shall the mobile phone be switched off, without prior intimation to the concerned Jail Superintendent;

16.6. The petitioner 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 any manner whatsoever;

16.7. The petitioner shall join the investigation as and when required by the IO;

16.8. The petitioner shall appear before the Trial Court on each and every date of hearing.

17. Needless to state, any observations made in the present order are solely for the purpose of deciding the present application, and shall neither influence the outcome of the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

18. The present application is disposed of in the aforesaid terms.

19. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

MINI PUSHKARNA, J

NOVEMBER 23, 2026
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