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

% ***Date of Decision: 25th November, 2026***

\# **CNR No. DLHC010361872026**

\+ BAIL APPLN. 3185/2026

AMAN @ BOUNCER .....Petitioner

Through: Mr. Jitender Sethi, Mr. Hemant Gulati, Mr. Keshav Sethi, Mr. Shobit, Mr. Divyam Gaur and Ms. Aanchal, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for State
Mob: 9871349009
SI Manish, PS R.K. Puram
Mob: 7231830725

**CORAM:**
**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J. *(Oral):***

1. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), on behalf of the petitioner, i.e., Aman @ Bouncer, S/o Jalaluddin, seeking grant of regular bail in connection with the First Information Report ("FIR") being *FIR No. 98/2026* dated 13th May, 2026, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), at Police Station ("PS") R. K. Puram, South West, Delhi.

2. The case being *SC 262/2026* arising out of *FIR No. 98/2026* is

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pending adjudication before the Additional Sessions Judge ("ASJ"), (Special Judge NDPS)-10, Patiala House Courts, New Delhi, and charges are yet to be framed.

3. This Court is informed that the petitioner had earlier moved an application before the Special Judge for regular bail in respect of *FIR No. 98/2026*, however, the same came to be dismissed *vide* order dated 24th July, 2026.

4. As per the material on record, the case set up by the prosecution is as follows:

4.1 On 13th May, 2026, at about 06:00 AM, two Head Constables, namely, Vinod Kumar and Ajay, along with their team, were patrolling in the area near *Sector-12, Bus Stand, Service Road, Ring Road, R. K. Puram, New Delhi*, where they apprehended a woman named Villima, i.e., co-accused no. 1.

4.2 Upon search of co-accused no. 1, 31 (thirty-one) small polythene packets containing smack/heroine, total weighing 35 grams (including the weight of the polythene packets), were recovered from her possession and seized in accordance with law.

4.3 During interrogation, co-accused no. 1 disclosed that she used to procure smack/heroine from persons, namely, Bouncer, Kake and Amit @ Sonu.

4.4 During the course of investigation, the person referred to as Bouncer was identified as Aman @ Bouncer, i.e., the petitioner herein. Thereafter, on the basis of secret information, on 06th June, 2026, the petitioner was apprehended and 07 grams of smack/heroine was recovered from his possession and seized in accordance with law.

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4.5 Upon completion of the investigation, a Chargesheet came to be filed on 07th July, 2026, whereby, the petitioner was charged under Section 21 of the NDPS Act.

5. In support of the present application, the following has been submitted on behalf of the petitioner:

5.1 The petitioner is a young man aged 25 years and has been in custody since 6th June, 2026.

5.2 No notice under Section 50 of the NDPS Act was ever served upon the petitioner. This is borne out by the fact that although the alleged notice issued under Section 50 of the NDPS Act is in typed form, the purported reply recorded on it is handwritten. Thus, this raises a serious doubt about the genuineness of the document.

5.3 In this regard, it is further submitted that the Investigating Officer ("IO") has stated that he himself wrote the said reply on the ground that the petitioner is not very literate. This is factually incorrect, as the notice itself bears the signatures of the petitioner in English, which shows that the petitioner is literate.

5.4 As per the case of the prosecution, the alleged contraband was recovered from the pocket of the pant/jeans worn by the petitioner. However, no recovery of any contraband is shown in the Personal Search Memo of the petitioner.

5.5 No independent public witness was joined at the time of the alleged recovery and seizure of the smack/heroine, or at the time of the personal search of the petitioner. The alleged recovery of smack/heroine from the petitioner therefore appears doubtful.

5.6 In any case, the alleged recovery of smack/heroine shown to be in the

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possession of the petitioner is only 07 grams, which is marginally above the small quantity of 05 grams.

5.7 In the present case, no videography of the apprehension of the petitioner or of his consequent search which resulted in the recovery of the alleged smack/heroine has been done by the IO. This also casts serious doubt on the genuineness on the case of the prosecution.

5.8 The co-accused Amit @ Sonu, who is stated to be a drug peddler and the supplier of smack/heroine to both co-accused no. 1 and to the petitioner herein, has since been granted anticipatory bail by the Special Court *vide* order dated 16th July, 2026.

6. *Per contra*, on behalf of the prosecution, it is submitted as follows:

6.1 During interrogation, co-accused no. 1 categorically disclosed that she used to procure narcotic substances from persons known as Bouncer, Kake and Amit @ Sonu. On the basis of the said disclosure and subsequent investigation, the petitioner was apprehended on 6th June, 2026, and, during his personal search, 07 grams of smack/heroine was allegedly recovered from his possession and seized in accordance with law.

6.2 The Seizure Memo categorically shows the recovery of 07 grams of smack/heroine at the instance of the petitioner.

6.3 The recovery of the narcotic substance from the petitioner during the investigation *prima facie* indicates his involvement in supply of narcotic substances. Further, the Supplementary Chargesheet incorporating the result of the Forensic Science Laboratory ("FSL") Report is yet to be filed before the Special Court.

6.4 A notice under Section 50 of the NDPS Act was duly served upon the

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petitioner, and his signature appears on it.

6.5 As regards the absence of videography, the requirement of video recording of the search and seizure operation is directory and not mandatory.

7. Having heard learned counsels for the parties, this Court notes that the quantity of contraband recovered from the possession of the petitioner falls within the intermediate quantity, and accordingly the rigours of Section 37 of the NDPS Act are not applicable to the present case. The quantity of the contraband recovered is a relevant factor in deciding the quantum of punishment under the NDPS Act, and is also relevant in deciding the bail application of an accused. Pertinently, it has also come to the fore that there was no independent witness to the alleged recovery proceedings.

8. This Court takes note that the petitioner is a young man of 25 years and has no criminal antecedents.

9. Further, the latest Nominal Roll dated 16th September, 2026, furnished by the Jail Authorities, shows that the petitioner has been in custody since 06th June, 2026, and that his overall conduct has been satisfactory.

10. This Court also notes that the investigation is complete and the Chargesheet has already been filed. A Supplementary Chargesheet incorporating the results of the FSL Report of the seized samples is still awaited. Thus, in view of these circumstances, this court is of the view that the petitioner is no longer required for custodial interrogation. Further, the trial is not likely to conclude in the near future. Accordingly, the continued incarceration of the petitioner will serve no useful purpose.

11. In the present case, nothing has been shown that would justify invoking the strict rigours of Section 37 of the NDPS Act, especially when

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the contraband recovered is only marginally above the small quantity. Thus, no reasonable grounds are made out for the denial of bail to the petitioner.

12. A Single Bench of this Court in ***Abhishek Tedha (In JC) Versus State of NCT of Delhi*** *vide* order dated 05th December, 2025, passed in ***BAIL APPLN. 3584/2025***, granted regular bail to the accused from whom an intermediate quantity of 8.24 grams of smack/heroine had been recovered.

13. The Supreme Court in a catena of judgments has consistently held that bail is the rule and jail is the exception. In another case of ***Anil Mahajan Versus Commissioner of Customs & Anr. 2000 SCC OnLine Del 119***, a Coordinate Bench of this Court has summarised the guiding principles in granting bail as follows:

> *"xxx xxx xxx*
>
> ***14.*** *The legal position emerging from the above discussion can be summarised as follows:*
>
> ***(a) Personal liberty is too precious a value of our Constitutional System recognised under Article 21 that the crucial power to negate it is a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. Deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution.***
>
> ***(b) As a presumably innocent person the accused person is entitled to freedom and every opportunity to look after his own case and to establish his innocence. A man on bail has a better chance to prepare and present his case than one remanded in custody. An accused person who enjoys freedom is in a much better position to look after his case and properly defend himself than if he were in custody. Hence grant of bail is the rule and refusal is the exception.***
>
> ***(c) The object of bail is to secure the attendance of the accused at the trial. The principal rule to guide release on bail should***

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***be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment.***

***(d) Bail is not to be withheld as a punishment. Even assuming that the accused is prima facie guilty of a grave offence, bail cannot be refused in an in-directed process of punishing the accused person before he is convicted.***

*(e) Judges have to consider applications for bail keeping passions and prejudices out of their decisions.*

*(f) In which case bail should be granted and in which case it should be refused is a matter of discretion subject only to the restrictions contained in Section 437(1) of the Criminal Procedure Code. But the said discretion should be exercised judiciously.*

*(g) The powers of the Court of Session or the High Court to grant bail under Section 439(1) of Criminal Procedure Code are very wide and unrestricted. The restrictions mentioned in Section 437(1) do not apply to the special powers of the High Court or the Court of Session to grant bail under Section 439(1). Unlike under Section 437(1), there is no ban imposed under Section 439(1) against granting of bail by the High Court or the Court of Session to persons accused of an offence punishable with death or imprisonment for, life. However while considering an application for bail under Section 439(1), the High Court or the Court of Session will have to exercise its judicial discretion also bearing in maind, among other things, the rationale behind the ban imposed under Section 437(1) against granting bail to persons accused of offences punishable with death or imprisonment for life.*

*(h) There is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the Courts. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. The answer to the question whether to grant bail or not depends upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstances cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.*

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*(i) While exercising the discretion to grant or refuse bail the Court will have to take into account various considerations like the nature and seriousness of the offence; the circumstances in which the offence was committed; the character of the evidence; the circumstances which are peculiar to the accused; a reasonable apprehension of witnesses being influenced and evidence being tampered with; the larger interest of the public or the State; the position and status of the accused with reference to the victim and the witness; the likelihood of the accused fleeing from justice; the likelihood of the accused repeating the offence; the history of the case as well as the stage if investigation, etc. In view of so many variable factors the considerations which should weigh with the Court cannot be exhaustively set out. However, the two paramount considerations are (i) the likelihood of the accused fleeing from justice, and (ii) the likelihood of the accused tampering with prosecution evidence. These two considerations in fact relate to ensuring a fair trial of the case in a court of justice and hence it is essential that due and proper weight should be bestowed on these two factors.*

*(j) While exercising the power under Section 437 of the Criminal Procedure Code in cases involving non-bailable offences except cases relating to offences punishable with death or imprisonment for life, judicial discretion would always be exercised by the Court in favour of granting bail subject to subSection 3 of Section 437 with regard to imposition of conditions, if necessary.* ***Unless exceptional circumstances are brought to the notice of the Court which might defeat proper investigation and a fair trial, the Court will not decline to grant bail to a person who is not accused of an offence punishable with death or imprisonment for life.***

*xxx xxx xxx"*

*(Emphasis Supplied)*

14. Thus, in the facts and circumstances of the present case, this Court notes that only an intermediate quantity of contraband was recovered from the petitioner. Investigation in the matter is already complete and the charge sheet has already been filed. However, charges are yet to be framed and trial has yet not commenced. Thus, further judicial custody of the petitioner is

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not necessary.

15. Considering the facts and circumstances of the present case, the petitioner is admitted to regular bail in connection with *FIR No. 98/2026*, dated 13th May, 2026, registered at PS R. K. Puram, on furnishing a personal bond in the sum of Rs. 25,000/-, with one surety in the like amount to the satisfaction of the Special Court/Duty Magistrate, and further subject to the following conditions:

15.1 The petitioner shall appear before the Special Court on each and every date of hearing.

15.2 The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned IO/Station House Officer ("SHO").

15.3 The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO;

15.4 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. The IO is directed to monitor the situation and, in the event of any complaint being made, to inquire into the same in accordance with law;

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

16. The present bail application is allowed and accordingly disposed of in

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the aforesaid terms.

17. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

18. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

**MINI PUSHKARNA, J**

**NOVEMBER 25, 2026**
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