



2025:DHC:10447



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

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Reserved on: 15.10.2025**Pronounced on: 26.11.2025****Uploaded on: 26.11.2025**

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ABHISHEK ANIL

.....Petitioner

Through: Mr. Lewish Edward, Mr.
Vignesh P., Mr. Gyanendra
Singh, Mr. Sameer, Adv.

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Mr. Arun Khatri, SSC with Ms.
Shelly Dixit, Mr. Tracy
Sebastian, Ms. Poonam Rani,
Ms. Priyanka, Adv.

CORAM:**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed seeking regular bail in connection with FIR/Crime No. VIII/16/DZU/2023 under Sections 8(C), 21, 22, 23 & 29 of NDPS Act, registered at Police Station NCB (DZU).

**Brief facts:**

2. On 19.04.2023, the NCB, Delhi Zonal Unit, received secret information that 28 parcels lying at DTDC Express Limited, Samalkha, New Delhi contained narcotic drugs and psychotropic substances. Acting on this, a team led by JIO HarenderDagar reached DTDC, where 28 parcels were produced before them. All parcels had the sender's name "AASK & Associates, Gurugram." Upon checking parcel no. V87616631, 500 LSD blot papers weighing 8.34 grams were recovered concealed inside a Hanuman Chalisa book. The consignment was addressed to one Abhishek Anil, present petitioner, of Gurugram. Based on the recovery, Abhishek was summoned under Section 67 NDPS Act and appeared before NCB on 20.04.2023. In his voluntary statement, he admitted that the parcel was ordered by his friend Jithin, who ran a café, Echoes of Nature, at Kasol, Himachal Pradesh. He further disclosed that he had earlier received two parcels containing LSD and Charas for Jithin. He said Jithin collected the contraband from him personally and also asked him to count the LSD blots and reship them.

3. Acting on this, NCB laid a trap at Abhishek's residence, where a person named Lino came to collect the parcel on Jithin's instructions and was also apprehended. Lino confirmed that he was sent by Jithin to collect "some items" from Abhishek. Thereafter, Jithin was traced and examined under Section 67 NDPS Act at NCB Mandi, where he admitted to ordering the LSD parcel in Abhishek's name for



convenience. He also disclosed his role along with associates Joyal Joseph and Ganesh in arranging LSD supplies via the dark web and receiving them at Abhishek's address. He admitted receiving earlier consignments of 1000 LSD blots and selling part of them at his café. CDR analysis corroborated that Jithin, Abhishek, and Lino were in contact, and location data matched their stated movements to Gurugram. Forensic reports confirmed LSD presence and WhatsApp chats between Jithin and Abhishek regarding drug parcels. NCB Cochin also linked Jithin to another LSD recovery from a parcel tracked to his number. The statements and digital evidence collectively established a drug trafficking network connecting Kerala, Himachal Pradesh, and Gurugram. Based on these findings, NCB arrested Abhishek, Jithin, and Lino under Sections 8, 21, 22, 23, and 29 of the NDPS Act. Abhishek Anil, the applicant was arrested on 21.04.2023.

Role of the applicant, Abhishek Anil:

4. Abhishek Anil facilitated in the LSD and Charas trafficking operation orchestrated by his associate, Jithin Cherian. He provided his girlfriend's Gurugram address as the landing point for multiple drug consignments ordered by Jithin through the dark web and other illegal channels. The first parcel he received contained Charas concealed inside an owl-shaped statue, and the second parcel bearing AWB No. V87616631, regarding the present matter, contained 500 LSD blot papers weighing 8.34 grams, recovered by the NCB from



DTDC, Samalkha. In his voluntary statement under Section 67 NDPS Act, Abhishek admitted that both parcels were meant for Jithin and that he had received and stored them at his rented residence, where he lived with his girlfriend, Aleena Sara Saji, who was unaware of the activities. He disclosed that Jithin directed him over WhatsApp to count the LSD blots, retain a small quantity, and reship the remainder to other destinations such as Himachal Pradesh and Bangalore, for which Jithin had assured him of booking tickets. On 15.04.2023, Jithin personally visited his house to collect the contraband, and again on 18.04.2023 he came with his associates Ganesh and Joyal Joseph for further dealings involving LSD blot papers.

5. When the NCB arrived on 20.04.2023, Abhishek, under instructions from the officers, called Jithin via WhatsApp to discuss the LSD parcel, and during that conversation, Jithin confirmed that the parcel contained 500 blots. The following day, on 21.04.2023, Lino, another associate of Jithin, arrived at Abhishek's residence to collect the parcel and was intercepted by the NCB. Abhishek identified Lino as the person Jithin had mentioned would come for the consignment. Subsequent digital analysis of his iPhone 11 confirmed WhatsApp chats with Jithin discussing LSD parcels and related transactions. His mobile CDRs also established frequent communication with Jithin's and Lino's numbers, and location analysis confirmed his presence at the Gurugram address where the contraband was received and stored. His statements, corroborated by digital and forensic evidence,



established that Abhishek knowingly acted as the receiver, custodian, and partial distributor of the contraband on behalf of Jithin and his network, thus actively facilitating the concealment, transportation, and distribution of LSD and Charas in violation of the NDPS Act.

Submissions of the Applicant/Abhishek Anil:

6. Learned counsel for the applicant submitted that the alleged parcel containing contraband seized by the NCB was not addressed to the applicant's own residence but allegedly to his friend's rented premises, and there exists no conscious nexus between the applicant and the alleged contraband. It was further submitted that co-accused Jithin Cherian, admitted to using the said address merely for convenience as courier accessibility was easier in Gurugram, and this fact was corroborated by one Aleena, who confirmed that the address belonged to her and not to the applicant. The respondent's reliance on WhatsApp chats dated 20.04.2023 and 30.03.2023 was assailed on the ground that these do not refer to any contraband and, in fact, the chats of 20.04.2023 were made while the applicant was already in NCB custody. It was argued that there is no communication or payment trail linking the applicant to the alleged order or receipt of the parcel, raising serious doubts as to whether the contraband was ordered by him.

7. It was further submitted that the applicant had voluntarily handed over his mobile phone, which yielded no incriminating chats or material, and that mere mention of his name cannot establish



conscious possession in the absence of proof of knowledge or control over the parcel. Learned counsel further emphasized that the rigours of Section 37 NDPS Act are not attracted where there is no direct recovery or corroborative evidence linking the applicant to the contraband, reliance has been placed upon **P. Vijay Pranav v. NCB** BAIL APPLN. 386/2024, **Saneesh Soman v. NCB** BAIL APPLN. 591/2025 affirming that the absence of conscious possession, corroborative material, and prolonged incarceration warrant the grant of bail. It was lastly submitted that the applicant has been in custody since 21.04.2023, no witness has been examined, and the trial is proceeding at a slow pace and is substantially protracted, thus prolonged pre-trial incarceration violates Article 21 of the Constitution. Reliance was placed upon **Tapas Mondal v. State of West Bengal** SLP no. 8464/2023, **Vicky v. State of NCT of Delhi** BAIL APPLN. 317/2025, **Mohd. Muslim @ Hussain v. State of NCT of Delhi** CrI. Appeal no. 915/2023, to submit that continued detention serves no purpose as the investigation is complete, the applicant has cooperated throughout, and the right to liberty and speedy trial must prevail. Lastly, it has been submitted that the applicant has been in custody for over two years, and while there are thirteen accused persons in total, ten of whom have been chargesheeted, the other three accused persons, from whom commercial quantities of contraband were recovered, were granted anticipatory bail by this Court vide order dated 29.04.2025.

**Submissions of the Respondent/NCB:**

8. Learned counsel for the NCB has placed reliance upon the order dated 22.04.2025 passed in Bail Appln. 1362/2024 wherein this Court, while dismissing the bail application of co-accused, Jithin Cherian, observed that the parcel bearing AWB No. V87616631, addressed to the present petitioner, Abhishek Anil, when opened, was found to contain 500 blots of LSD weighing 8.34 grams, which is a commercial quantity. It was submitted that a notice under Section 67 of the NDPS Act was issued to Abhishek Anil, who in his statement disclosed that the said parcel was ordered under the instructions of co-accused Jithin Cherian. It was further observed in the said order that the seized parcel containing 500 LSD blots was to be delivered to the co-accused Jithin through Abhishek Anil, and that the call detail records revealed numerous calls exchanged between the co-accused Jithin and petitioner, Abhishek Anil on 20.04.2023, i.e., on the date of delivery of the parcel. Additionally, recovery of photographs of LSD blots and other contraband was made from the co-accused Jithin's phone.

9. Reliance was also placed upon the statement of co-accused Lino Lalychan, who stated that he was sent by the co-accused Jithin to collect the LSD blots, and that the co-accused Jithin had instructed petitioner Abhishek Anil to count the blots to ensure that they were 500 in number before sending them to Himachal Pradesh through Lino. The learned counsel for the NCB further submitted that the petitioner had booked the said parcel in his own name but at the



address of his girlfriend, Aleena, which clearly demonstrates his involvement in the transportation and sale of 500 LSD blots weighing more than 8 grams, a commercial quantity. Emphasis was also laid upon the incriminating WhatsApp chats and CDRs between the petitioner and co-accused Jithin Cherian, evidencing their active participation in the transaction forming the subject matter of the present case.

Rebuttal submissions of the petitioner:

10. In rebuttal, learned counsel for the petitioner has vehemently submitted that the alleged incriminating messages between the petitioner and co-accused Jithin were, in fact, sent under the direction of the respondent agency after the petitioner was detained, and hence cannot be treated as voluntary or incriminating in nature. It was submitted that the petitioner stands on the same footing as co-accused Aleena and Lino, both of whom have not been treated as principal offenders. The petitioner was merely used as a mule by Jithin to facilitate the delivery of parcels containing contraband, wherein the petitioner's name was misused for booking, the address of Aleena was utilized for delivery, and Lino acted as the transporter between Jithin and the petitioner.

11. Learned counsel has also pointed out that booking a parcel with DTDC mandates the submission of an Aadhaar card, yet no such identification details of the alleged booker were produced by the prosecution, thereby raising serious doubt on the veracity of the case.



Reliance has been placed upon the bail granted to co-accused Yash Gupta by the trial court on the ground of prolonged incarceration under Article 21 of the Constitution, as well as upon the judgments of *Solomon Ogbe v. NCB* Bail Appln. 4263/2024 and *Man Mandal & Anr. v. The State of West Bengal* SLP No. 8656/2023, to submit that continued custody of the petitioner, in the absence of corroborative evidence and a protracted trial, would be violative of his fundamental rights.

Analysis and Conclusion:

12. This Court has considered the rival submissions advanced by both sides, and finds that the plea of parity raised by the petitioner is wholly misconceived. The contraband recovered in the instant case pertains to 500 LSD blot papers weighing 8.34 grams, which is nearly eighty times the threshold of commercial quantity fixed under the NDPS Act, i.e., 0.1 gram. In contrast, the co-accused persons, who have been granted bail by the Trial Court and this Court, were found in possession of significantly lesser quantities, not exceeding 50 blots in any case. Therefore, the scale of recovery attributed to the present applicant stands on a completely different footing, and the principle of parity cannot be invoked when the magnitude and nature of the recovery are disproportionately higher, directly indicating deeper involvement in trafficking operations rather than mere peripheral participation.



13. The rigours of Section 37 of the NDPS Act are clearly attracted in the present case. The offence involves recovery of a commercial quantity of LSD, which is one of the most potent psychotropic substances known for its addictive and hallucinogenic effects. Under Section 37, no person accused of such an offence can be released on bail unless the Court is satisfied that there are reasonable grounds to believe that the accused is not guilty of the offence and is not likely to commit any offence while on bail. In the instant case, not only is there recovery of a commercial quantity of LSD linked directly to the applicant's name, but also corroborative digital evidence, including WhatsApp chats and CDRs, indicating active coordination between the petitioner and co-accused Jithin. Thus, the statutory twin conditions under Section 37 have not been satisfied.

14. It is further pertinent to note that this Court, in its order dated 22.04.2025 passed in Bail Appln. 1362/2024 (involving co-accused Jithin Cherian), has already observed that the WhatsApp conversations between the petitioner, Abhishek Anil, and Jithin Cherian pertained to the very same parcel, which was seized by the NCB, and that such communications were of an incriminating nature. The Court had also recorded that the statement of co-accused Lino Lalychan categorically establishes that it was Jithin who had sent Lino to collect the contents of the parcel from the applicant and the applicant was known to Lino so it can be clearly deduced that this was not the first time Lino came to collect the parcel. These findings



clearly demonstrate that the petitioner was not a passive or unknowing participant but an active facilitator in the chain of illicit drug trafficking.

15. The said order also took judicial notice of the inherently dangerous and addictive nature of LSD, observing that LSD is an extremely potent psychotropic drug that induces high dependency and severe psychological and physical effects, often necessitating dilution due to its strength. The recovery of such a substantial quantity, 500 LSD blots weighing 8.34 grams, cannot be viewed lightly. The deleterious impact of such narcotics on the youth and the fabric of society is both alarming and undeniable. The proliferation of such substances, as reflected in the present case, underscores the growing menace of synthetic drug abuse that is crippling the younger generation and poses a grave threat to public health and order.

16. In ***State of Kerala v. Rajesh*** (2020) 12 SCC 122, the Supreme Court reaffirmed that the power to grant bail under the NDPS Act is strictly governed by Section 37, which imposes mandatory twin conditions that must be satisfied before any accused involved in commercial quantity offences can be released. The Court held that no liberal or lenient approach is permissible, as such offences pose grave danger to public health and societal order. It emphasized that the term “reasonable grounds” requires substantial, credible evidence indicating the accused’s innocence, not mere *prima facie* satisfaction. The judgment underscored that drug traffickers are societal hazards,



inflicting widespread harm, especially upon vulnerable youth. Accordingly, the Court concluded that bail in NDPS cases involving commercial quantity cannot be granted unless both statutory conditions are fully met, the relevant paragraphs read as under;

“17. The jurisdiction of the court to grant bail is circumscribed by the provisions of Section 37 of the NDPS Act. It can be granted in case 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. It is the mandate of the legislature which is required to be followed. At this juncture, a reference to Section 37 of the Act is apposite. That provision makes the offences under the Act cognizable and non-bailable. It reads thus:

“37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under Section 19 or Section 24 or Section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail.”

(emphasis supplied)



18. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in the offences under the NDPS Act. In *Union of India v. Ram Samujh* [*Union of India v. Ram Samujh*, (1999) 9 SCC 429 : 1999 SCC (Cri) 1522] , it has been elaborated as under:

“7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. **It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved.** This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in *Durand Didier v. State (UT of Goa)* [*Durand Didier v. State (UT of Goa)*, (1990) 1 SCC 95 : 1990 SCC (Cri) 65] as under: (SCC p. 104, para 24)

‘24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.’

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of



offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent-accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended.”

19. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 CrPC, but is also subject to the limitation placed by Section 37 which commences with non obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.

20. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the



time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.”

17. The argument based on Article 21 of the Constitution and prolonged incarceration has also been considered but cannot be sustained in light of the gravity of the offence and the statutory restrictions imposed under Section 37 of the NDPS Act. This Court, while dismissing the bail plea of co-accused Jithin Cherian in the same matter, categorically held that despite his two years of incarceration, Article 21 could not override the legislative mandate under Section 37, particularly when the recovered quantity is of commercial magnitude and the investigation is still underway to identify higher-level operators in the syndicate. The same reasoning squarely applies to the present petitioner, who stands on identical or even stronger footing concerning culpability, as the parcel bearing his name forms the very genesis of the recovery in question.

18. In view of the above discussion, this Court is of the considered opinion that the petitioner, Abhishek Anil, has failed to establish any ground for grant of bail under the stringent framework of Section 37 of the NDPS Act. The recovery of 500 LSD blots, coupled with incriminating electronic evidence and the petitioner's own admissions under Section 67, indicates a prima facie active role in the illicit trafficking of psychotropic substances. The enormity of the quantity, its potential societal impact, and the need to ensure that the chain of



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supply and higher handlers are unearthed, collectively weigh heavily against the petitioner.

19. Accordingly, the petition is dismissed.

20. The pending application(s), if any also stand disposed of.

21. Nothing stated herein shall tantamount to be an expression on the merits of the case.

22. A copy of this order be sent to Jail Superintendent for information.

RAVINDER DUDEJA, J.

November 26, 2025/na



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