



2025:DHC:10506



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

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Reserved on: 16th October, 2025**Decided on: 27th November, 2025****Uploaded on: 27th November, 2025**+ **BAIL APPLN. 3198/2025****JITESH @ JITU**

.....Petitioner

Through: Mr. U.A.Khan, Mr. Tushar
Upadhayaya and Mr. Shahrukh
Khan, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan,
APP with SI Dev Kumar,
ANTF, Crime Branch.

+ **BAIL APPLN. 3216/2025****VIJAY @ DANNY**

.....Petitioner

Through: Ms. Nandita Rao, Sr. Adv. with
Mr. Vimal Tyagi, Mr. Balaji
Pathak, Mr. Amit Peswani and
Mr. Tripurari Jha, Advs.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan,
APP with SI Dev Kumar,
ANTF, Crime Branch.

CORAM**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT**



RAVINDER DUDEJA, J.

1. The present applications under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [**“BNSS”**] are filed by the petitioners Jitesh @ Jitu and Vijay @ Danny seeking grant of regular bail in FIR No. 05/2025, dated 05.01.2025, registered at Police Station Crime Branch, under Sections 21/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 [**“NDPS Act”**]. Since both applications emanate from a common set of facts and pertain to the same FIR, they are being disposed of together by this common judgment.

Factual Background:

2. The brief facts are that on 05.01.2025, a secret information was received that one person named Lalla Babu, involved in supply of heroin in Trans-Yamuna area, would be coming near IHBAS Hospital, Dilshad Garden, near Tiranga Flag Point, to deliver heroin to his known persons Jitesh @ Jitu and Vijay @ Danny, and if raid is conducted, all of them can be apprehended.

3. On the basis of said information, a raiding team was constituted. At about 4.25 pm, co-accused Lalla Babu came on foot and stood on the footpath of the road near Tiranga Flag Point and started waiting for someone. After 4-5 minutes of waiting, he started going back but was apprehended by the raiding team and on his search, heroin weighing 502 grams was recovered from his possession from a polythene.



4. Subsequently, FIR no. 05/2025, dated 05.01.2025, under section 21 NDPS Act was registered at PS Crime Branch against co-accused Lalla Babu and he was arrested. Upon interrogation, he gave information regarding the supplier of heroin namely Nimazuddin Ansari @ Nizam of Bareilly and receivers namely Jitesh @ Jitu and Vijay @ Danny in Delhi.

5. On 10.01.2025, a secret information was received that **petitioner Vijay @ Danny** would be going in his black colour i-20 car, bearing registration No. DL11-CE-5292 to make delivery of heroin. Upon such information, a raiding team was constituted. The car of the petitioner Vijay @ Danny was chased. However, upon suspicion, petitioner Vijay @ Danny jumped the red light and struck against a truck and road divider and ran away after abandoning his car. On the search of the car of petitioner Vijay @ Danny, 99 grams of heroin was recovered from a polythene.

6. On 30.01.2025, **co-accused Jitesh @ Jitu** was apprehended on the basis of secret information near Shiv Chowk, Shalimar Garden. At his instance, 125 grams of heroin was recovered from his house in Nand Nagri.

7. Furthermore, co-accused Nizamuddin Ansari @ Nizam was apprehended on 24.02.2025 on the basis of secret information near Shyam Lal College, but no contraband was recovered from his possession.



8. After conclusion of trial, chargesheet dated 03.07.2025, under sections 21/29 of NDPS Act was filed against accused persons- Lalla Babu, Jitesh @ Jitu, Nizamuddin Ansari @ Nizamand Vijay @ Danny.

Submissions on behalf of the petitioners:

9. Learned counsels for the petitioners have submitted that the petitioners were falsely implicated in the present case in a pre-planned and calculated manner as the same is apparent from the fact that one photograph of the heroin like substance was sent through WhatsApp message from mobile No. 7310849155 on the mobile phone of co-accused Jitesh @ Jitu i.e. 9354251401 and co-accused Jitesh @ Jitu replied to the such message “*Kaun Hai Bhai, Kya Bhej Raha Hai*”. Similar message was sent from the mobile phone of co-accused Lalla Babu on the mobile No. 9810386110, allegedly used by the petitioner Vijay @ Danny. However, the said number was never used by the petitioner Vijay @ Danny, rather the said number belongs to one Praveen, as duly mentioned in the charge sheet as well.

10. It is submitted that apart from the above-mentioned WhatsApp message, prosecution has miserably failed to connect the petitioners with the main accused Lalla Babu in any manner. The petitioners had no CDR connectivity whatsoever and they do not have any monetary transactions and any WhatsApp message or voice messages on WhatsApp to show their connivance with each other and the alleged



WhatsApp message, which was sent on 05.01.2025 on the date of registration of the FIR, was sent with mala fide intention and ulterior motive to the petitioners as well as other persons with motive to falsely implicate in the present case and the entire story was created and cooked up with the main accused Lalla Babu was in the police custody.

11. It has been submitted that the recovery has been planted upon the petitioners. The mandatory provisions of Section 42 NDPS Act have not been complied while conducting the alleged search and seizure from the *i-20* car. No sincere effort was made to join public persons during the search and seizure. No videography was conducted to rule out any possibility of planting the contraband. Even, as per the case of the prosecution, the car was parked in a locked condition. It is not explained as to how the door of the car was opened. It is submitted that there is apprehension that the contraband was firstly planted in the car and thereafter videography as per Section 105 BNSS was conducted and therefore not much reliance can be placed upon the same.

12. On behalf of petitioner Jitesh @ Jitu, it has been submitted that he was allegedly arrested from Shiv Chowk, Shalimar Garden, while in the arrest memo, his arrest is not shown from the said address, rather, the same is shown from the office of ANTF, Crime Branch, Darya Ganj, which is contrary to the prosecution story. It has been further submitted on his behalf that the recovery is shown to have been



effected from the ancestral house of petitioner Jitesh @ Jitu, while he is residing with his family at Shalimar Garden, Sahibabad, U.P. for the last two years.

13. It is further submitted that petitioner Jitesh @ Jitu was granted interim bail for a period of two weeks on the ground of illness of his wife, which was further extended for two weeks. He duly surrendered after the expiry of interim bail period and did not misuse the liberty of bail.

14. It has been further submitted on behalf of the petitioners that the investigation is complete and charge sheet has since been filed in court and the trial may take long time to conclude. The recovery from the petitioners is of intermediate quantity, and therefore, they are entitled for the grant of bail.

Submissions on behalf of the State:

15. Learned APP, who appears for the State, submits that the total quantity of heroin recovered in the present case cumulatively amounts to 726 grams consisting of 502 grams recovered from the main accused Lalla Babu, 99 grams recovered from receiver Vijay @ Danny (from his vehicle) and 125 grams recovered from the residential premises of the receiver Jitesh @ Jitu. The said quantity of contraband clearly qualifies as commercial quantity and hence the statutory bar under Section 37 of the NDPS Act is directly attracted in the present case.



16. He further submitted that petitioner Jitesh @ Jitu has serious and habitual criminal background and is involved in five more cases including a murder case and two cases of attempt to murder.

17. With regard to petitioner Vijay @ Danny, it has been submitted that he is involved in about 49 cases of theft, Excise Act, snatching etc., out of which, one case is under Section 20 NDPS Act bearing FIR No. 332/2007, PS Nand Nagri. It is further submitted that the mobile number of petitioner Vijay @ Danny (9810386110) instead of 9870386110 is found saved in the mobile phone of co-accused Lalla Babu, who sent the photograph of contraband to petitioner Vijay @ Danny as per the phone number saved in his contact list because the petitioner was the intended receiver.

18. It is argued that both petitioners are part of a big syndicate of drug trafficking and are therefore not entitled for grant of bail.

Court Analysis and Reasoning

19. I have heard submissions advanced by learned counsel for the parties and having perused the record.

20. The prosecution case, on a prima facie reading, discloses a chain of events commencing from secret information which identified the supplier, namely Lalla Babu, and the intended receivers, namely the petitioners- Jitesh @ Jitu and Vijay @ Danny. The raiding party is said to have apprehended Lalla Babu on 05.01.2025 and



recovered 502 grams of heroin from his possession. Thereafter, recoveries of 99 grams of heroin from the i-20 car belonging to petitioner Vijay @ Danny and 125 grams of heroin from the premises of petitioner Jitesh @ Jitu were effected in the course of the investigation. These recoveries are not detached or isolated events, rather they form part of a single continuing sequence indicated in the contemporaneous secret information and subsequent investigation.

21. At the threshold it must be reiterated that bail proceedings are not an occasion for conducting a mini-trial. The Courts must on the basis of material placed before it assess if there are reasonable grounds to believe that the accused is not guilty and that, if released, he is not likely to commit any offence while on bail- the statutory twin conditions required under Section 37 of the NDPS Act. The Supreme Court in *Union of India v. Shiv Shanker Kesari*, (2007) 7 SCC 798; *Union of India v. Ram Samujh*, (1999) 9 SCC 429; and *Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496 has repeatedly cautioned that where grave offences involving narcotic drugs are alleged, the Court must exercise caution while considering bail and must have regard to the nature and magnitude of the offence, the role attributed to the accused, antecedents and the likelihood of the accused misusing liberty.

22. In the present case, the cumulative recovery amounts to 726 grams of heroin, which is well above the commercial quantity. The charge-sheet points to a common trafficking chain in which the



supplier procured narcotics from a source and distributed the same to identified receivers in Delhi. The charge-sheet records inter-connected electronic communications, CDR connectivity between the supplier and the source, and sharing of photographs of the contraband with the identified receivers. On a prima facie consideration, therefore, the material points to a linked supply network rather than isolated, unrelated recoveries.

23. The petitioners' primary contention that recoveries made from co-accused cannot be clubbed and that the recoveries from each petitioner must be viewed in isolation as "intermediate quantity" cannot be accepted at this stage. The law on clubbing of recoveries is now well settled. In **Awadhesh Yadav v. State (2023:DHC:8529)**, this Court exhaustively reviewed the statutory framework and precedents and culled out the principles governing when quantities recovered from multiple accused may be combined for purposes of Section 37. The relevant extract of the judgment reads as under:

"49. From the provisions of law and the essence of case-laws, as discussed above, following principles can be culled out governing clubbing of the quantity of contraband recovered from two or more co-accused, at the stage of bail:

i. invocation of offence of abetment and/or conspiracy under Section 29 of the Act is must for clubbing of quantity. However, there cannot be a straight jacket formula for clubbing the quantity of contraband recovered from all the accused, merely on the basis of invocation of offence under Section 29 of the Act. It will depend on the factual backdrop of each case and the incriminating material available against the accused persons.



ii. the incriminating material relied upon to invoke the offence of abetment and/or conspiracy under Section 29 of the Act, has to be cogent and convincing against each one of the accused charged with the offence of abetment and/or conspiracy.

iii. in a case where joint recovery of contraband has been effected from two or more co-accused, the recovered contraband cannot be equally divided amongst the number of accused to determine whether the quantity of contraband recovered in “commercial quantity” or not.

iv. where accused persons are travelling together in the same private vehicle individually carrying contraband, it will not be proper to consider the alleged recovery to be an individual recovery and the contraband recovered from all persons can be clubbed.

v. if an accused is a habitual offender, it gives rise to an inference that he knows the tricks of the trade. In such a situation, previous involvement of the accused in the case(s) under the NDPS Act, is an additional factor which could be considered, besides other incriminating circumstances, for adding the quantities of contraband recovered from two or more co-accused.”

24. The law on clubbing of recoveries is not to be applied mechanically. Where prima facie evidence suggests that the accused are acting in concert through communication links, common sourcing, sequential recoveries, or coordinated movements, then recoveries cannot be compartmentalized merely to evade Section 37 NDPS Act. The decisive question at this stage is whether there are *reasonable grounds* to infer that the recoveries pertain to a joint scheme. The contemporaneous secret information naming both petitioners and the sequence of recoveries that followed are cogent indications of a single supply chain. In the present case, the secret information expressly identifies the petitioners as the intended recipients by co-accused Lalla



Babu and a photograph of the contraband was sent by Lalla Babu to the petitioners. The CDR analysis further shows communication both between the supplier and the source (Nizam) and among the alleged conspirators. All three recoveries are closely connected in time and operation. At the bail stage, this material is more than adequate to view the recoveries as part of a joint operation attracting Section 29 of the NDPS Act.

25. The petitioners have challenged the authenticity of the electronic material and have alleged planting of evidence, improper compliance with statutory safeguards, absence or inadequacy of videography and non-joining of public witness etc. These contentions go to the weight and credibility of the prosecution case and will have to be examined at trial. It is well settled that such disputed questions of fact and credibility cannot be resolved at the bail stage unless the prosecution case is manifestly infirm or unsustainable. This Court in *Yunus Khan v. State (BAIL APPLN. 441/2024)*, reiterated that challenges to the legality of search and seizure, discrepancies in weights, or procedural irregularities are matters for trial unless they demolish the prosecution case at the threshold. The material placed before this Court does not disclose such fundamental infirmity as would require bail to be granted.

26. The statutory bar under Section 37 of the NDPS Act requires the Court to be satisfied that there are “reasonable grounds for believing that the accused is not guilty” and that he is “not likely to



commit any offence while on bail”. The Supreme Court in **NCB v. Mohit Aggarwal (Criminal Appeal Nos.1001–1002 of 2022)** has clarified that “reasonable grounds” must be credible and plausible. both petitioners have serious criminal antecedents. Petitioner Jitesh @ Jitu faces multiple cases including offences under Sections 302 and 307 IPC. Petitioner Vijay @ Danny is involved in nearly 52 cases, including previous NDPS involvement. Prior conduct and antecedents, while not determinative by themselves, are pertinent to the assessment of the risk of abscondence, the likelihood of re-offending and the probability of tampering with evidence. The Supreme Court in **State of Bihar v. Amit Kumar, (2017) 13 SCC 751** has held that antecedents reflecting a propensity to commit serious offences must be taken into account when considering bail in serious matters. The record shows that the petitioners have a history that gives the Court real concern about the risk posed if they are released on bail.

27. The petitioners' contention that trial may take time is insufficient to dilute Section 37, particularly when they have failed to demonstrate either limb of the twin-test. In **NCB v. Mohit Aggarwal** (supra), the Supreme Court held that long incarceration alone cannot override the statutory embargo where the allegations involve commercial quantity of narcotics.

28. Even on the narrower ground that the recoveries directly attributable to each petitioner are of intermediate quantity, the overall context of them being named in the secret information, inter-



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connected recoveries, the electronic and CDR material and their criminal antecedents, persuades the Court that the petitioners have not discharged the burden to demonstrate that they are entitled to the exceptional relief of bail despite the statutory bar.

29. Considering the nature of allegations, the chain of recoveries, the prima facie material showing involvement in a trafficking network, their criminal antecedents, the statutory embargo under Section 37, and the precedents, this Court cannot record the satisfaction that the petitioners are not guilty or that they are not likely to commit an offence while on bail.

30. In consequence of the foregoing discussion and the reasons recorded above, the applications seeking regular bail filed by the petitioners Jitesh @ Jitu and Vijay @ Danny are accordingly dismissed.

31. Nothing in this order shall be construed as an expression on the merits of the case, which shall be evaluated independently at trial.

RAVINDER DUDEJA, J.

NOVEMBER 27, 2025

RM/AK