



2025:DHC:6308



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

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*Date of decision: 31<sup>st</sup> July, 2025*

+ BAIL APPLN. 101/2025, CRL.M.A. 21259/2025

SOMDUTT

.....Petitioner

Through: Mr. Vikram Hegde, Mr. Abhinav  
Hansaraman and Mr. Trishan Dollny,  
Advs.

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Mr. Arun Khatri, SSC, NCB with Ms.  
Shelly Dixit, Ms. Tracy Sebastian,  
Ms. Anamika Bhalla and Mr.  
Devender Singh, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ARUN MONGA**

**ARUN MONGA, J. (Oral)**

**CRL.M.A. 21260/2025**

Allowed, subject to all just exceptions.

Application stands disposed of.

**BAIL APPLN. 101/2025**

1. Under incarceration for about 04 years and 03 months and having remained unsuccessful in his multiple foray in past, both before this Court as well as in the Supreme Court, the applicant herein is again before this court seeking the concession of bail. His earlier bail application before this Court was dismissed vide an order dated 01.12.2023 which was assailed by



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way of an SLP before the Supreme Court which too was dismissed vide an order dated 16.05.2024. Applicant is implicated in case SC No. 156/2021, Crime No. VIII/25/DZU/2019, under Sections 22(c)/23/29 of the NDPS Act, registered by Narcotics Control Bureau, Delhi,

2. Case of the prosecution is that on the basis of a secret information that a parcel containing narcotic tablets in huge quantity has been booked for delivery by a courier company DTDC Express Limited on 06.07.2019, a team of Narcotics Control Bureau raided the above said Courier Company. Deepak Atri, IO tried to associate public witnesses hut none would join citing various reasons. After reaching the DTDC Courier Company, the NCB Team met with Surender Dagar Security Manager and disclosed their identity and purpose of visit. Surender Dagar disclosed that the parcel in question is lying in their office. Before search, IO again requested persons present to join raiding team, and Amar Singh thus joined the raiding party as an independent witness. Amar Singh was apprised of the requisite information as well as asked to take search of the members of the raiding team, which he declined. Thereafter, parcel booked under airway bill No. N20843460 was produced by the DTDC Courier employees. On examination the said parcel was found wrapped with DTDC tape and name of the consignee and consigner with their address were mentioned as Sudhir Srivastava, 6/804, Vikas Nagar Lucknow, UP Mob. No.6389371068 (Sender) and Amar Srivastava, Carol Davis, 2001, Park Avenue,, Lynchemburg, V A24501, USA. The ID of Sudhir Srivastava i.e. copy of the Aadhar Card and Election ID Card were attached with the parcel. The parcel was opened and it was found containing Cornflakes, biscuits and T-shirt etc



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along with some strips of the medicines. Total of 500 strips of 10 tablets each of Alprazolam (5000 tablets) were thus recovered. The date of manufacturing and expiry and the name of manufacturer i.e. JIPS Pharmaceuticals Punjab were mentioned on the all the strips. Thereafter, a single strip of 10 tablets was opened, one tablet when weighed was found to be 02gm. Total weight of the recovered 5000 tablets was ascertained as 01 kg. In course of investigation, 20,000 tablets of Alprazolam were recovered from the premises of the applicant and he was arrested. Subsequent to his arrest, based on his disclosure statement, two more recoveries from other persons were made on 09.04.2021 and 21.09.2021. Along with the applicant two more co-accused i.e. alleged suppliers of prescription medicine, namely Manish Gupta and Arun Kumar @ Varun were also implicated in the FIR/complaint in question. The prosecution alleges that the supply of these medicines was illicit, as neither the co-accused nor the applicant had the requisite licenses.

3. In the aforesaid backdrop, I have heard the rival contentions and gone through the case file.

4. Learned counsel for the applicant contends that the recovery in question was neither made from the applicant's conscious possession nor in his physical presence. He argues that the alleged recovery took place at a premises said to be rented by the applicant, but there is no evidence on record to establish either that the applicant rented the premises or had possession of it. On this basis alone, he submits, the prosecution's case against the applicant, as pleaded in the complaint, collapses.

4.1. Counsel further argues that the applicant's prolonged incarceration



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entitles him to bail. In support, he relies on the Supreme Court's judgment in *Rabi Prakash v. State of Odisha*, 2023 SCC OnLine SC 1109, asserting that, in light of this decision, the stringent requirements of Section 37 of the NDPS Act do not apply in the present case. He maintains that it is thus irrelevant whether any culpability is attributed to the applicant or whether this Court is required to record a preliminary finding that the trial is not likely to result in conviction.

4.2. With respect to the apprehension of a repeat offence, counsel again refers to the same Supreme Court judgment, asserting that prolonged incarceration weakens the presumption under Section 37 of the NDPS Act.

4.3. Regarding subsequent recoveries made after the applicant's arrest, counsel submits that these are based solely on disclosure statements of co-accused individuals. He relies on *Toofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1, to argue that such statements are not admissible in evidence under Section 67 of the NDPS Act.

4.4. Learned counsel for the applicant also also cites *Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 SCC OnLine SC 352, where the Supreme Court held that, at the stage of bail, the court should consider the material broadly to assess whether guilt may reasonably be presumed. He points out that, in the present case, there are material inconsistencies regarding the quantity of substances sent to and received by the CRCL, substantial non-compliance with Section 52A of the NDPS Act, and a lack of cogent evidence. Accordingly, he submits that even after trial, conviction is unlikely, and the applicant should be granted regular bail.

4.5. Finally, he refers to *Mohan Lal v. State of Rajasthan*, (2015) 6 SCC



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222, and *Union of India v. Mohd. Nawaz*, (2021) 10 SCC 100, where the Supreme Court held that for the presumption of guilt under Section 37 of the NDPS Act to apply, there must be prima facie material indicating the accused's knowledge or state of mind of the accused. In the present case, there is no such material showing that the applicant was aware of the parcel or its contents.

5. Opposing the bail application, learned counsel for the respondent/NCB, inter alia, submits that, given the large quantity of contraband involved, the applicant is not entitled to any leniency from this Court. He further points out that the Supreme Court, by order dated 16.05.2024, has already rejected the applicant's bail plea, specifically noting that the applicant is involved in another NDPS case and, therefore, he does not deserve any concession.

5.1. Qua the long incarceration, he would submit that the benefit of the same also cannot be accorded to the applicant as there is a likelihood of repeat offence being committed by him, given the large quantity recovered initially from his premises and subsequently at his behest from other persons.

6. Having heard and perused the case file, it appears to be a fit case for bail at this stage. Let us see how.

7. Two co-accused individuals, namely Manish Gupta and Arun Kumar @ Varun, who were implicated along with the applicant and alleged to be the suppliers of the contraband (prescription medicines listed under Schedule-I of the NDPS Act), have already been released during the pendency of the trial.



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8. Both co-accused have been granted bail: Arun Kumar @ Varun was granted bail by a Coordinate Bench of this Court on 25.04.2023, while Manish Gupta was granted bail by the learned Trial Court on 16.04.2024.

9. It is also pertinent to note that Manish Gupta, who is on bail, by his own admission, sold the tablets to the applicant and on whose disclosure the applicant was apprehended.

10. Regarding the earlier rejection of the applicant's bail by Supreme Court, it appears the dismissal was primarily due to two reasons: (i) the applicant had not been in custody long enough at that time, and (ii) he was involved in another NDPS case. However, during the present hearing, it has emerged that the applicant was implicated in the second NDPS case only subsequently, based on a custodial disclosure made by the primary accused in that matter. Moreover, the applicant has already been granted bail in that subsequent NDPS case, and the co-accused in the subsequent second case have also been released on bail.

11. Taking a comprehensive view of the circumstances, particularly the applicant's prolonged incarceration, I am of the opinion that he is now entitled to bail pending trial. As for concerns regarding tampering with evidence, there appears to be no such risk—most of the material is documentary in nature, and the contraband has already been seized and is beyond the applicant's reach. With respect to witness influence, most witnesses are officials of the Narcotics Control Bureau, and thus, there is little to no likelihood of them being influenced.

12. Additionally, it is relevant to note that since the Supreme Court's earlier dismissal of bail, more than one year and three months have gone



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past, and the trial has progressed only at snail pace. Out of 46 prosecution witnesses, only two have been partially examined so far.

13. The applicant is stated to be the sole breadwinner of his family. His two elderly parents, who suffer from age-related ailments, are entirely dependent on him for care and support. It is submitted that he is a family man, well-rooted in society, and unlikely to abscond or misuse the concession of bail.

14. Accordingly, the application is allowed. Applicant is directed to be released on bail on furnishing of bail bonds and surety of an equivalent amount to the satisfaction of the learned Trial Judge/Duty Judge as the case may be, subject to the imposition of other usual conditions by the learned Trial Judge/Duty Judge.

15. Nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application. In case applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case vide instant order.

**ARUN MONGA, J**

**JULY 31, 2025**

*akc/rs*