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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 14.02.2025*+ **BAIL APPLN. 3674/2024****SUVASHISH ROY @ JESSY ROY**Petitioner

Through: Mr. Ajayinder Sangwan, Mr. Arun Rathi, Mr. Rohan Sharma, Mr. Pradeep Kumar Sharma, Mr. Siddharth Gill, Mr. Smit Singh Kuru, Mr. V.P Singh, Mr. Deepak Sehrawat and Mr. Kunal Chopra, Advocates

versus

NARCOTICS CONTROL BUREAURespondent

Through: Mr. Arun Khatri, Sr. Standing Counsel for NCB with Ms. Shelly Dixit, Ms. Anoshuka Bhalla, Ms. Tracy Sebastian and Mr. Pranavjeet Singh, Advocates

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J**

1. By way of the present bail application filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita,



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2023 [hereafter '*BNSS*'], the applicant/accused seeks regular bail in Case No. VIII/46/DZU/2021, registered by Narcotics Control Bureau (NCB), R.K. Puram, for offences punishable under Sections 8/20(b)(ii)(A)/21(b)/22(c)/ 23/29 of the The Narcotic Drugs and Psychotropic Substances Act, 1985 [hereafter '*NDPS Act*'].

2. As discernible from the record, the present case arises from an investigation into an alleged drug trafficking syndicate operating across multiple states, involving numerous accused persons engaged in the procurement, distribution, and sale of narcotic and psychotropic substances. The investigation was initiated on 04.08.2021 based on information shared by the Kolkata Zonal Unit of the Narcotics Control Bureau (NCB), leading to the interception of one Guhan Sarvothaman at IGI Airport, Delhi. A search of his baggage resulted in the recovery of 30 grams of *Ganja* and 0.45 grams of Ecstasy. Upon interrogation, he disclosed the involvement of Rahul Mishra, and provided his address, indicating the likelihood of contraband being stored at his premises. Acting on this disclosure, a raid was conducted at the residence of Rahul Mishra in Faridabad, leading to the recovery of 1.05 kg of *Ganja*. Further searches at the residence of Guhan Sarvothaman in Greater Noida resulted in the seizure of 1 kg of *Ganja* and Rs. 15.5 lakhs in cash. The investigation expanded as Guhan Sarvothaman further disclosed the role of accused Aashray Pandey, who was intercepted at Ambience Mall,



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Gurgaon, with a parcel containing 410 grams of *Ganja*. The accused Guhan Sarvothaman also disclosed the name of one Tareena Bhatnagar as the one who had promised him to get high quality *Ganja*, for which he had paid Rs. 6 lakhs to one Jasbir. The accused Jasbir was arrested on 02.09.2021, who disclosed the names of Shradha Surana and Naman Sharma.

3. The name of the applicant, Suvashish Roy, emerged prominently during custodial interrogations of accused persons, particularly through disclosures made by co-accused Jasbir Singh and Shradha Surana. Acting on their statements, a search was conducted at the residence of the applicant, located at Flat No. E-1903, Supertech Livingston Apartment, Crossing Republic, Greater Noida West, District Ghaziabad, on 09.09.2021. During this search, a significant quantity of contraband, including 1.250 kg of high-quality *Ganja*, 16 grams of Ecstasy pills (MDMA), 6 grams of Heroin, 40 grams of *Charas*, and 130 grams of suspected psychotropic substances in the form of various colored pills, was recovered. Additionally, a separate seizure of 39.700 grams of cannabis concentrate and 2.530 grams of liquid cannabis was made from a parcel at the Foreign Post Office, Kolkata. The applicant, Suvashish Roy, was arrested on 10.09.2021. The prosecution contends that the apartment in which the recovery was made was a rented premises registered in the name of his mother and himself, and that it was



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being used as a hub for illicit drug activities.

4. The investigation further revealed a complex network of drug trafficking operations facilitated through darknet platforms and encrypted messaging applications such as Wicker and Telegram. The accused persons allegedly used pseudo-names on these applications for anonymity. Co-accused Raghunath Kumar, who was already in judicial custody in another NDPS case, was identified as the key supplier responsible for illegally importing contraband into India using cryptocurrency transactions. Co-accused Jasbir Singh and Shradha Surana allegedly provided landing addresses for the delivery of drug parcels, which were then redistributed through various means. Statements under Section 67 of the NDPS Act, as well as telephonic and financial linkages, implicated multiple individuals in the ongoing criminal conspiracy. The investigation also uncovered several additional recoveries, arrests, and financial transactions linking multiple accused persons. On 24.09.2021, a large cache of narcotics, including 13.1 kg of *Ganja*, Ecstasy pills, LSD blots, and Hashish chocolates, was recovered from the residence and office of co-accused Krunal Golwala and Dixita Golwala. Further, the role of accused persons such as Aditya Reddy, Mohammad Aslam @ Chico, and Devesh Vasa was identified in connection with illicit drug procurement and distribution. The syndicate allegedly operated by advertising drugs on social media platforms and facilitating



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transactions through cryptocurrency, ensuring anonymity in the procurement and sale of narcotics. The present applicant has been in judicial custody since 10.09.2021.

5. **The learned counsel appearing for the applicant** contends that the applicant has been in judicial custody since 10.09.2021, a period exceeding three years and four months, and the charges have yet not been framed. It is stated that the delay in the commencement of trial is primarily attributable to repeated adjournments sought by the NCB, and with a total of 49 witnesses yet to be examined, the trial is unlikely to conclude in the near future. It is argued that the prolonged incarceration of the applicant without substantive progress in the case raises serious concerns about the deprivation of personal liberty. Furthermore, the applicant is similarly situated to other co-accused persons, the majority of whom have already been granted bail. It is submitted that co-accused Krunal Gowala, from whom a commercial quantity of 284 grams of MDMA was recovered, has been granted bail, whereas the applicant, allegedly found in possession of only 16 MDMA, continues to languish in custody.

6. It is further argued by the learned counsel for the applicant that the investigation in this case suffers from grave procedural irregularities, particularly in relation to the search and seizure process. The recovery in the present case was made at 20:00 hrs on 09.09.2021, which falls between sunset and sunrise. However, as



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mandated under Section 42(1) of the NDPS Act, any search conducted during this period must be accompanied by a written recording of the grounds of belief by the searching officer. In the instant case, there is no material to demonstrate compliance with this mandatory provision, thereby rendering the entire recovery process suspect. Next, it is contended that there has been an unexplained and inordinate delay in the process of sampling and forensic examination, which raises serious concerns about the possibility of tampering of samples. As per the NCB's own case, the recovery was affected on 09.09.2021, yet the application for sampling was moved only on 26.10.2021 i.e. after an unjustifiable delay of 47 days. Therefore, there is violation of Section 52A of NDPS Act.

7. Lastly, it is argued that the applicant has already been granted bail in another case (VIII/53/DZU/2021), in which the alleged secret information was received on 24.09.2021 – during a time when the applicant was already in custody in the present case. This contradiction indicates that the applicant was falsely implicated in multiple cases as part of a conspiracy by the NCB. It is further relevant to note that several co-accused, such as Krunal Gowala, Parichay Arora, Jabir Singh, and Shradha Surana, were implicated in multiple NDPS cases involving commercial quantities of contraband, yet they have all been granted regular bail. On these grounds, the learned counsel for the applicant prays that the present bail



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application be allowed.

8. On the other hand, **the learned counsel appearing for the respondent/NCB** argues that the present case registered by the NCB as well as the arrest of the accused are legal and genuine, and the allegations of false implication made by the applicant are entirely baseless and devoid of merit. It is contended that a substantial quantity of narcotic and psychotropic substances was recovered from the possession of the accused, Suvashish Roy, at his rented premises, Flat No. E-1903, Supertech Livingston Apartment, Ghaziabad. The seizure included 1.250 kg of high-quality *Ganja*, 16 grams of MDMA (Ecstasy Pills), 6 grams of Heroin, 40 grams of *Charas*, and 130 grams of suspected psychotropic substances in the form of different-colored pills. The learned counsel further submits that all mandatory provisions under the NDPS Act were duly complied with during the search and seizure, and no procedural infirmity exists that would vitiate the prosecution's case.

9. It is contended on behalf of the NCB that the applicant herein had direct links and financial transactions with co-accused Parichay Arora, which establishes his active role in drug trafficking. There is documentary evidence in the form of bank transactions confirming his financial dealings with co-accused persons, and he is also suspected to be operating on the dark web under the pseudonym 'Jessie Pinkman' for the purpose of illicit drug trade. It is asserted



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that the accused was identified based on disclosures made by co-accused Jasbir Singh and Shradha Surana, leading to the recovery of commercial quantities of narcotics from his premises. It is submitted that the accused was actively involved in the distribution and sale of contraband substances in collaboration with other co-accused persons, making him an integral part of the larger criminal conspiracy. The learned counsel strongly refutes the claim of procedural violations and argues that any alleged delay in compliance with Section 52A of the NDPS Act does not automatically entitle the accused to bail, as the Court must consider the overall circumstances, the primary evidence collected, and the statutory presumption under Section 54 of the NDPS Act.

10. The learned counsel for the NCB further contends that all the accused persons in the present case are inextricably linked through a well-planned criminal conspiracy. The complicity of the accused is evident from the totality of the circumstances and the investigation conducted by the NCB. Given the nature of the offence and the commercial quantity of contraband involved, the stringent provisions of Section 37 of the NDPS Act apply. Since Section 37 contains a non obstante clause, the twin conditions for bail must be strictly satisfied—first, that the accused is not guilty of the offence, and second, that he is unlikely to commit a similar offence while on bail. It is argued that the accused has been involved in multiple cases



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under the NDPS Act relating to commercial quantities of contraband, thereby failing to meet these conditions. In light of these submissions, it is prayed on behalf of the NCB that the present bail application be dismissed.

11. This Court has **heard** arguments addressed on behalf of both the parties, and has perused the material placed on record by either side.

12. The present case arises from an extensive investigation into an alleged interstate drug trafficking network, wherein multiple accused persons have been found to be actively engaged in the procurement, distribution, and sale of narcotic and psychotropic substances. The role of the present applicant, Suvashish Roy, had surfaced during custodial interrogations of co-accused persons, particularly Jasbir Singh and Shradha Surana, whose statements directly led to the search and recovery of contraband from his residence. It is to be noted that the raid conducted at the applicant's rented premises at Flat No. E-1903, Supertech Livingston Apartment, Crossing Republic, Greater Noida West, District Ghaziabad, resulted in the seizure of 1.250 kg of high-quality *Ganja*, 16 grams of Ecstasy pills (MDMA), 6 grams of Heroin, 40 grams of *Charas*, and 130 grams of suspected psychotropic substances. Furthermore, an additional recovery of 39.700 grams of cannabis concentrate and 2.530 grams of liquid cannabis was made from a parcel at the Foreign Post Office,



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Kolkata. The applicant's contention that the premises do not belong to him is unfounded, as the rent agreement is registered in the name of both his mother and himself. The statement of the society supervisor further corroborates that the applicant was the sole occupant of the said premises at the time of recovery. Therefore, in light of such facts and circumstances, this Court is *prima facie* in agreement with the contention of the NCB that the sheer volume and variety of contraband recovered indicates that the premises in question were being used as a hub for illicit drug activities by the applicant herein.

13. It is further to be noted that the NCB has placed on record substantial digital and financial evidence linking the applicant to the larger drug trafficking network. It has been found during investigation that the applicant was active on the dark web under the pseudonym 'Jessie Pinkman' and from another house owned by him, invoices billed to this pseudonym have been recovered. Furthermore, as per prosecution, there exist multiple bank transactions between the applicant and co-accused Parichay Arora, reflecting financial dealings related to, money earned through drug trafficking. Thus, the involvement of the applicant in organized drug trafficking is not merely circumstantial but is supported by tangible evidence, including documentary records and digital traces, which at this stage is sufficient to *prima facie* raise suspicion about his involvement in



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the present case. Furthermore, the statements of co-accused persons, bank transactions, and electronic evidence collectively demonstrate a criminal conspiracy, of which the applicant *prima facie* seems to be an integral part.

14. As far as the arguments of learned counsel for the applicant, that provisions of Section 52A of the NDPS Act, were not followed by the NCB and therefore bail should be granted to the applicant is concerned, this Court finds the same unmerited. In this regard, it shall be apposite to note that the Hon'ble Supreme Court in *Narcotics Control Bureau v. Kashif*: 2024 SCC OnLine SC 3848 has held that any procedural irregularity or illegality found to have been committed in conducting the search or seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible, and any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The relevant extract of the decision is as under:

“39. The upshot of the above discussion may be summarized as under:

(i) The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as



mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

(vi) Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act.”

15. Concededly, the quantity of narcotic substance recovered in this case from the present applicant is commercial quantity. Therefore, the twin conditions under Section 37 of the NDPS Act will have to be satisfied by the applicant so as to be entitled to grant of bail. Section 37 of the NDPS Act is set out below:

"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 27A 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."

16. The Hon'ble Supreme Court in *Narcotics Control Bureau v. Mohit Aggarwal*: 2022 SCC Online SC 891, while explaining the meaning of 'reasonable grounds' under Section 37(1)(b) of NDPS Act, has held as under:

"14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail."

17. In the case of *Union of India v. Prateek Shukla*: (2021) 5 SCC 430 as well as *State v. Lokesh Chadha*: (2021) 5 SCC 724, it was held by the Hon'ble Supreme Court that the provisions of Section 37 of NDPS Act have to be applied strictly at the time of deciding bail application of an accused.

18. With regard to Section 37 of NDPS Act, this Court is of the view that the respondent/NCB has been successful in showing that



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there are reasonable grounds to believe that the applicant herein is guilty of the alleged offence. Further, this Court also takes into consideration the fact that the applicant has criminal antecedents, including his involvement in Case No. VIII/53/DZU/2021, pertaining to possession, distribution, and trafficking of narcotic drugs. Though he has been granted bail in the said case, the possibility of the applicant engaging in similar activities and committing similar offence cannot be ruled out, particularly taking into account the nature, variety and quantity of recovery made from the present applicant.

19. Thus, considering the severity of the allegations, the quantity of contraband involved, the statutory embargo under Section 37 of the NDPS Act, and the fact that charges are yet to be framed against the applicant herein, this Court finds no ground to grant bail to the applicant at this stage.

20. However, the learned Trial Court is directed to expedite the proceedings in this case, including passing of order on charge, since the applicant has been in judicial custody for more than three years and charges have yet not been framed in this case.

21. With above directions, the present bail application is dismissed.

22. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.



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23. A copy of this order be forwarded to the concerned Trial Court for information.
24. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J
FEBRUARY 14, 2025/zp