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

Reserved on: 29th October, 2026
Pronounced on: 2nd November, 2026
Uploaded on: 2nd November, 2026

\# **CNR No. DLHC010505352026**

\+ CRL.A. 1047/2026 & CRL.M.A. 32999/2026

HARIOM .....Appellant

Through: Mr. Rahul Sharma and Mr. Kundan Kumar, Advocates.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Akhand Pratap Singh, SPP with Ms. Samridhi Dobhal and Ms. Apoorv Paliya, Advocates. Inspector Ritesh, SI Gagandeep.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The present appeal under Section 12 of the Maharashtra Control of Organised Crime Act, 1999 ["MCOCA"], challenges the order dated 7th October, 2026, whereby the Special Court rejected the Appellant's application for regular bail in FIR No. 186/2025, registered at P.S. Sultanpuri, Delhi, for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 ["NDPS Act"], the Bharatiya Nyaya Sanhita, 2023, the Drugs and Cosmetics Act, 1940, and Sections 3 and 4 of MCOCA. The Appellant was arrested on 26th October, 2025 and has remained in custody,

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except for periods of interim bail granted by the Special Court.

2. The prosecution case originates from a raid conducted on 10th March, 2025, at premises E-4/13, Sultanpuri, resulting in the recovery of 385.53 grams (gross weight) of heroin, packed in sachets, and 47.09 grams of Tramadol. During subsequent sampling proceedings, the recovered contraband was found to be of intermediate quantity, and charges against co-accused Amit were framed under Section 21(b) of the NDPS Act. The investigation thereafter extended to an alleged organised drug syndicate headed by Kusum, and Sections 3 and 4 of MCOCA were invoked.

3. The Appellant is Kusum's brother. The allegation against him is principally one of financial facilitation. According to the prosecution, he permitted his bank accounts and those of his sons to be used for receiving and transferring proceeds generated from narcotics trafficking, and facilitated the acquisition of immovable properties from those funds. No contraband was recovered from him, nor is any specific act of procurement, sale or transportation of narcotics directly attributed to him.

4. Mr. Rahul Sharma and Mr. Kundan Kumar, counsel for the Appellant, submits that the financial dealings relied upon by the prosecution have been given a criminal character merely because they involved his sister and other family members. The Appellant has been conducting legitimate business through M/s Toshi Automobiles and M/s Raghav Enterprises, supported by registration documents, banking records and income-tax returns. There is no independent evidence establishing that the amounts received or transferred by him originated from narcotics trafficking, or that he knowingly participated in the activities of an organised crime syndicate. It is further contended that the requirements of MCOCA are not satisfied, as there are no

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previous chargesheets against the Appellant establishing his involvement in any continuing unlawful activity. The Appellant has no previous criminal antecedents and also seeks parity with co-accused Anuradha @ Chiku and Deepa Singh, who have been granted bail by the Supreme Court and this Court, respectively.

5. Mr. Akhand Pratap Singh, SPP for the State, opposes the appeal. He relies upon credits aggregating approximately INR 2 crore in the Appellant's bank accounts between 2022 and 2025, the transfer of INR 20 lakh to Kusum, and payments towards immovable properties purchased in the names of the Appellant and Pooja Singh, Kusum's daughter. Reliance is also placed upon statements of protected witnesses and the confessional statements recorded under Section 18 MCOCA, including that of the Appellant himself. The State maintains that the Appellant knowingly acted as a financial conduit for the syndicate, and that the conditions prescribed under Section 21(4) MCOCA are not satisfied.

6. Section 21(4) MCOCA imposes conditions additional to those governing bail under the general law. Where the Public Prosecutor opposes release, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit an offence while on bail. These requirements are cumulative. In ***Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra***,[1] the Supreme Court explained that the provision does not require a positive finding of innocence. The Court must assess the material on broad probabilities, paying particular attention to the accused's culpability and requisite *mens rea*, without undertaking a final determination

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of guilt. In ***Chenna Boyanna Krishna Yadav v. State of Maharashtra***,[2] the Supreme Court reiterated that the satisfaction contemplated by Section 21(4) must rest on reasonable grounds, involving something more than a *prima facie* assessment, while cautioning against a meticulous examination of evidence at the stage of bail.

7. The Appellant's objection concerning the absence of multiple chargesheets against him individually does not advance his case. In ***Zakir Abdul Mirajkar v. State of Maharashtra***,[3] the Supreme Court clarified that the requirement of earlier chargesheets concerns the organised crime syndicate and not in respect of each person alleged to be its member. The prosecution has referred to several earlier NDPS cases involving Kusum and persons allegedly associated with her. The absence of previous chargesheets against the Appellant, therefore, does not by itself render MCOCA inapplicable. However, the existence of an organised crime syndicate does not automatically establish the Appellant's involvement in its activities. His alleged role must be examined independently on the basis of the material placed on record.

8. The financial material forms the principal basis of the prosecution case. The State relies upon credits of approximately INR 2 crore in the Appellant's accounts over a period of several years. The existence of substantial deposits cannot, however, be equated with the receipt of proceeds of organised crime. The Appellant has produced documents evidencing business activity, including an income-tax return for assessment year 2024-25 reflecting gross business receipts of INR 34,73,300. That

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[1] (2005) 5 SCC 294.
[2] (2007) 1 SCC 242.

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return does not, by itself, explain all the transactions relied upon by the prosecution, particularly those pertaining to a subsequent financial year. It does, however, establish that the Appellant was engaged in business, a circumstance which must be considered when assessing the nature of credits in his accounts. The mere volume of credits in the Appellant's accounts, without distinguishing between legitimate business receipts and transactions allegedly linked to the syndicate, is insufficient to establish that the entire amount represents proceeds of organised crime.

9. The State places particular emphasis on a cash deposit of INR 20 lakh in the account of M/s Raghav Enterprises on 29th August, 2024, followed by a transfer of the same amount to Kusum's account the following day. The banking records support the movement of funds. While the prosecution alleges that the amount represented proceeds of narcotics trafficking, the Appellant contends that he transferred it to his sister to assist her in purchasing property. The bank statements may establish the movement of funds, but do not, by themselves, establish their unlawful origin or the Appellant's knowledge thereof. The mere fact that the amount was transferred to Kusum is also insufficient to establish his participation in the activities of the alleged organised crime syndicate.

10. The prosecution also relies upon the purchase of adjoining agricultural properties at Village Godha, Aligarh, under registered sale deeds dated 15th May, 2025, one in the Appellant's name and the other in the name of Pooja Singh. The status report records that payments towards both properties were made from the Appellant's accounts, preceded by substantial cash deposits. This is a circumstance requiring explanation,

[3] 2022 SCC OnLine SC 1092.

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particularly insofar as payments were made towards a property acquired in another person's name. The prosecution further alleges that the properties were purchased for approximately INR 90 lakh. However, the status report records a sale consideration of INR 25 lakh for the property purchased in Pooja Singh's name, while the payments detailed for both properties aggregate to INR 50 lakh. The higher figure of INR 90 lakh is principally attributed to the statements recorded during investigation. More importantly, the documentary material concerning these purchases does not, by itself, establish that the funds were derived from organised crime. The distinction between an inadequately explained financial transaction and one knowingly undertaken for an organised crime syndicate cannot be overlooked.

11. The statement of protected witness 'NK' refers to a deposit of INR 2 lakh into the Appellant's bank account from funds provided by Kusum's daughter, Pooja, for the purchase of land in Bulandshahr. Although the witness has referred to subsequently learning about the involvement of Kusum and her family in narcotics trafficking, he does not attribute any such activity or knowledge of the unlawful source of funds specifically to the Appellant. The prosecution also relies upon the statement of Ravi Kumar @ Sunny, who subsequently became an approver. His account concerning the Appellant's involvement is, however, general in nature and partly based on information received from another accused. Neither statement independently identifies any specific act of sale or supply of narcotics by the Appellant.

12. The Appellant's confessional statement recorded under Section 18 MCOCA requires separate consideration. According to the statement reproduced in the chargesheet, the Appellant acknowledged that he was aware of the unlawful source of the funds and had permitted his and his

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sons' bank accounts to be used for routing proceeds from narcotics sales in consideration of a commission. The statement also refers to the transfer of INR 20 lakh and the acquisition of immovable properties. This material cannot be disregarded. Section 18 MCOCA expressly provides for the admissibility of confessions recorded by specified police officers, subject to the statutory safeguards. ***Mohd. Farooq Abdul Gafur v. State of Maharashtra***,[4] the Supreme Court, while deciding appeals arising from convictions and acquittals after trial, held that a confession duly recorded under Section 18 MCOCA constitutes substantive evidence and may, by itself, form the basis of conviction. The decision thus recognises the evidentiary significance of such confessions. However, the present proceedings concern an application for bail, where the Court is required to assess the material on broad probabilities in terms of Section 21(4) MCOCA, rather than undertake a final determination of guilt.

13. The banking and property records lend support to certain transactions described in the Appellant's alleged confession. However, they do not, *prima facie*, independently establish the unlawful origin of the funds, the Appellant's knowledge thereof, or the alleged receipt of commission. This does not render the confession inadmissible or make independent corroboration an inflexible requirement. It does, however, bear upon the assessment of the prosecution material on broad probabilities, particularly when the Appellant has produced records of legitimate business activity and offered an explanation for the transactions. These questions will require examination at trial, where the evidentiary value of the confession and the financial records can be assessed together.

[4] (2010) 14 SCC 641.

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14. The orders concerning Anuradha and Deepa also deserve consideration. Anuradha's appeal against refusal of bail was dismissed by this Court on 6th January, 2026. The Supreme Court, however, by order dated 24th July, 2026, set aside that judgment and granted her bail, taking into account her period of incarceration, the fact that she is a woman, and the intermediate quantity of contraband. Thereafter, Deepa was granted bail by this Court on 29th September, 2026, upon finding that her role and circumstances did not materially distinguish her from Anuradha. The order of the Supreme Court does not contain any finding exonerating Anuradha on the merits, nor does it dispense with the requirements of Section 21(4) for other accused. Nevertheless, the prosecution material against both sisters included allegations of direct involvement in the narcotics trade, substantial financial transactions and the routing of alleged proceeds through banking channels. The Appellant's role and personal circumstances are not identical, and his own confessional statement is an additional circumstance requiring consideration. The earlier orders are therefore not conclusive on parity, but remain relevant to the overall assessment of his entitlement to bail.

15. Having considered the material as a whole, this Court is satisfied that there are reasonable grounds for believing that the Appellant is not guilty of the offences alleged under MCOCA, for the limited purpose of Section 21(4)(b). While the prosecution material raises serious suspicion regarding his financial dealings with the alleged syndicate, the independent evidence does not sufficiently establish the unlawful origin of the funds or his knowing participation in organised crime. The circumstances discussed above, considered cumulatively, satisfy the statutory threshold at this stage, without requiring the Court to undertake a conclusive assessment of the

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prosecution case.

16. The second requirement under Section 21(4) is also satisfied. The Appellant has no reported previous criminal antecedents and was granted interim bail on several occasions, aggregating approximately 103 days, without any reported misuse of liberty. Although the prosecution has referred to an allegation of intimidation of a protected witness by persons associated with the syndicate, no such act is attributed to the Appellant. These circumstances, considered alongside the nature of his alleged role, provide sufficient grounds to believe that he is unlikely to commit an offence under MCOCA while on bail. Appropriate conditions can also address the apprehension of interference with witnesses or the proceedings.

17. Accordingly, the appeal is allowed. The order dated 7th October, 2026, is set aside. The Appellant shall be released on regular bail in FIR No. 186/2025, P.S. Sultanpuri, Delhi, upon furnishing a personal bond in the sum of INR 50,000 with two sureties of the like amount, to the satisfaction of the Special Court, subject to the following conditions:

(a) The Appellant shall appear before the Trial Court on every date fixed, unless exempted in accordance with law.

(b) He shall not directly or indirectly contact, threaten, induce or influence any prosecution witness, or otherwise interfere with the evidence.

(c) He shall furnish his current residential address and mobile number to the Investigating Officer and shall intimate any change to the Investigating Officer and the Trial Court.

(d) He shall not leave India without prior permission of the Trial Court and shall surrender his passport, if any, before the Trial Court.

(e) He shall report to the SHO of P.S. Pahasu, District Bulandshahr, Uttar

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Pradesh, on the first Monday of every month, between 10:00 AM and 5:00 PM, until further orders of the Trial Court.

(f) He shall cooperate with the proceedings and shall not misuse the liberty granted to him.

18. Any violation of these conditions shall entitle the prosecution to seek cancellation of bail in accordance with law. The observations made herein are confined to the consideration of the present appeal and shall not influence the Trial Court in determining the charges or appreciating the evidence.

19. The appeal, along with pending applications, if any, stands disposed of.

SANJEEV NARULA, J

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