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

% **Date of decision: 07.05.2025**

+ **BAIL APPLN. 856/2025**

AKASH BISHT

.....Petitioner

Through: Mr. Aditya Aggarwal, Ms.
Kajol Garg, Mr. Naveen
Panwar and Mohd. Yasir, Adv.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with
ASI Sachin Singh, PS Crime
Branch.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. By way of the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) the petitioner seeks the grant of Regular Bail in FIR No.229/2024 dated 16.11.2024 for the offences punishable under Sections 20,25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Crime Branch.

2. As per the prosecution, an intelligence input was received by ASI Sanjeev Kumar, stationed at Hauz Khas, Delhi, on 16.11.2024.



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At approximately 2:00 AM, an informant approached ASI Sanjeev Kumar with information that one Akash Bisht (petitioner), a resident of Surat, Gujarat, was habitually engaged in procuring *charas* from Himachal Pradesh and supplying it across different locations, including Delhi. The informant disclosed that on the said date, Akash would be traveling to Delhi via the Singhu Border between 5:00 AM and 6:00 AM in a white Skoda car bearing registration number GJ-05-RQ-0047, and would subsequently proceed to Surat, Gujarat. It was further intimated that the *charas* would be concealed within the vehicle.

3. Upon receiving the tip-off, ASI Sanjeev Kumar recorded the secret information on a plain sheet of paper and proceeded to interrogate the informant to verify its reliability. Thereafter, at 2:20 AM, he contacted Inspector Robin Tyagi telephonically and communicated the intelligence. Inspector Tyagi, after cross-verifying the information with the informant over the phone, escalated the matter to ACP/ARSC, Sh. Arvind Kumar, who directed that immediate legal action be taken.

4. The secret information was duly recorded in Daily Diary No. 2 at 3:10 AM, in compliance with Section 42 of the NDPS Act. A Raiding team, equipped with an I.O. Bag, Field Testing Kit, Official Seal "ARSC CRIME 2", Laptop, Printer, UPS, and Electronic Weighing Machine, navigated through Pushta Road, Ring Road ISBT, Majnu Ka Tila, Makbara Bypass, and GT Karnal Road, and reached Singhu Border at 4:45 AM. Efforts were made to enlist the



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assistance of public witnesses near ISBT Kashmiri Gate and Bypass GT Karnal Road, but none consented to participate, citing personal constraints.

5. A barricade was set up at GT Karnal Road, Singhu Border. At approximately 6:00 AM, a white Skoda car bearing registration number GJ-05-RQ-0047 was observed approaching from the Haryana side, however, the vehicle did not stop upon the signal given by the raiding party to halt and instead accelerated towards Delhi. The car was intercepted at the red light near Mahendra Park Gurudwara, Jahangirpuri Metro Station, Delhi.

6. The driver of the car, later identified as the petitioner, and the passenger, co-accused Chelpon Bisht, were signalled to exit the vehicle. The raiding party introduced themselves and enquired about their identities.

7. In accordance with procedural requirements and the presence of a female accused, Woman Head Constable Uma Chaudhary was summoned to the scene. Notices under Section 50 of the NDPS Act were duly served upon both accused persons, apprising them of their right to be searched in the presence of a Gazetted Officer or a Magistrate. Both accused declined the option and recorded their refusal in writing.

8. A search of both individuals was conducted as per law; however, no contraband was recovered from their persons. Consequently, the vehicle was taken to the Ring Road Skoda Workshop for a detailed inspection. During the search, **539.5 grams**



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of *charas* was allegedly recovered from the car, concealed within the subwoofer in the trunk and the headrest of the driver's seat. The contraband was seized, video graphed as per Section 105 of the BNSS, and sealed using the official seal "ARSC CRIME 2".

9. The case was registered as FIR No. 229/2024 under Sections 20, 25, and 29 of the NDPS Act at PS Crime Branch. The case property was counter-sealed by SHO/PS Crime Branch and deposited in the Malkhana of PS Crime Branch under Section 55 of the NDPS Act. The petitioner was formally arrested, and co-accused Chelpon Bisht was also taken into custody with the requisite permission from the Ld. Duty MM under Section 43(5) of the BNSS. The FSL Report, received on 10.12.2024, confirmed the recovered substance to be *charas*.

10. The petitioner moved a bail application before the learned ASJ, NDPS on 22.02.2025, which came to be dismissed, compelling the petitioner to file the present petition.

11. The learned counsel for the petitioner submits that the present case involves an *intermediate quantity* and therefore, the statutory bar under Section 37 of the NDPS Act would not apply to the present case. He places reliance on the following decisions:

- ***Soyab vs State (NCT of Delhi)*** Bail Appln.2626/2022
- ***Mahesh vs State (NCT of Delhi)*** Bail Appln.161/2025
- ***Chhalimudin vs State (NCT of Delhi)*** Bail Appln.3017/2024



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- ***Chand Bala Kinnar vs State Govt. of NCT of Delhi*** Bail Appln. 4431/2024
- ***Sunil vs the State of NCT of Delhi*** Bail Appln. 495/2022

12. The learned counsel submits that the Charge in the present case has not been framed and the petitioner has been incarcerated for a period of about 6 months. Further, the petitioner is having clean antecedents and the Jail Conduct of the petitioner is satisfactory. In light of these circumstances, the bail application be allowed.

13. Opposing the bail application, the learned APP for the state submitted that the Charge has not yet been framed, thus, it is premature to consider the bail application of the petitioner.

14. Having heard the learned counsel for the petitioner and the learned APP for the State and perused the record, this Court, at the outset, may note that the learned APP has conceded to the fact the quantity of *Charas* allegedly recovered in the present case is an *intermediate quantity*.

15. From the decisions cited by the petitioner, it is evident that in a case involving intermediate quantity, the rigours of Section 37 of the NDPS Act do not apply. Further, the nominal roll also reveals that the petitioner is not involved in any other cases and the jail conduct of the petitioner has been satisfactory. The prosecution, during the course of arguments, did not dispute that the trial is yet to commence and that there is no immediate prospect of its conclusion in the near future.

16. In view of the aforestated observations, this Court is of the considered opinion that the continued incarceration of the petitioner



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and the trial being in its nascent stages, it would serve no fruitful purpose to keep the bail application pending.

17. Accordingly, in view of the entire conspectus of facts and circumstances as noted hereinabove, the petitioner is admitted to Regular Bail in the subject FIR bearing No. 229/2024 dated 16.11.2024 for the offences punishable under Sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Crime Branch, on his furnishing a personal bond in the sum of ₹ 30,000/- with two surety bonds of the like amount, subject to the satisfaction of the learned Trial Court / CMM / Duty Magistrate and further subject to the following conditions:

- i. The Petitioner shall not leave the country without prior permission of the learned Trial Court.
- ii. The Petitioner shall report to the concerned/local Police once a week between 4:00 PM to 6:00 PM to mark his presence.
- iii. The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- vi. The Petitioner shall not contact, nor visit, nor offer any



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inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.

vii. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.

18. Further, no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of bail alone.

19. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

20. Accordingly, the present bail application stands disposed of.

SHALINDER KAUR, J

MAY 7, 2025/frk

Click here to check corrigendum, if any