

Regular Bail Application
RE 220 E 2023 E0016, CBI, EO-II, New Delhi
CBI Vs. Mohit Jaiswal
U/s 8 r/w Sec. 22/23/29 NDPS Act

06.02.2026

This is an application U/s 483 BNSS, 2023 seeking grant of regular bail to the applicant/ accused.

Present: Sh. Vishal Gupta, Ld. Spl. PP for State alongwith Mr. Yasir Sidhiqui, Ld. Counsel for applicant/accused.

Reply to the bail application is already filed. Copy already supplied.

Arguments have already been heard.

On 06.02.2026, Ld. Counsel for applicant/accused, Ld. Spl. PP for State and IO have argued that "at the outset, Ld. Counsel for the applicant/ accused submits that the previous bail application of applicant/accused was dismissed as withdrawn by this court vide order dt. 24.12.2025, thereafter the applicant/accused moved one miscellaneous application before Hon'ble Delhi High Court to seek permission to move fresh application before this court. According to them, the said application has been allowed by Hon'ble Delhi High Court vide order dt. 09.01.2026. The said order has been annexed with bail application as annexure A8.

Ld. Counsel for applicant/accused submits that the secret information received by CBI was not reduced in writing as per Section 42 NDPS Act. Thus, according to them, the prosecution has not complied Section 42 NDPS Act and therefore the applicant/accused is entitle to bail.

In support of his submissions, he has relied upon the

judgments titled as Noor Aga Vs. State of Punjab & Ors. SLP (Crl.) No. 5597/2006 decided on 09.07.2008 by Hon'ble Supreme Court of India; Zakey Ahmed Vs. State of NCT of Delhi & Anr., Bail Appln. 817/2025 decided on 17.07.2025 by Hon'ble Delhi High Court; Gulab Rai @ Chetan vs. State (NCT of Delhi), Bail Appln. 3840/2023 decided on 19.01.2024 by Hon'ble Delhi High Court; Sarija Banu (A) Janarthani & Ors. Vs. State through Inspector of Police, Criminal Appeal no. 302/2004 (Criminal) No. 5534/2003, Original Petition No. 34232/2003 arising out of Crime No. 188/2003, decided on 26.02.2004 by Hon'ble Supreme Court of India; Karnail Singh Vs. State of Haryana, Criminal Appeal Nos. 36/2003 and 606/2004 decided on 29.07.2009 by Hon'ble Supreme Court of India; Jitender Kumar Vs. State NCT of Delhi, CRL. M.C. 5264/2024 decided on 12.07.2024 by Hon'ble Delhi High Court; Mamta vs. State of Delhi, Bail Appln. 2270/2021 decided on 28.09.2021 by Hon'ble Delhi High Court.

Per contra, Ld. Spl. PP for the state as well as IO have vehemently opposed the bail application. They submit that the secret information was received on 04.07.2023 from Interpol and thereafter it was verified and on 06.07.2023 a special report was prepared. According to them, they also submit that the aforesaid secret information was also reduced in writing and the said document is available with CBI and it can be produced in the court. They further submit that 1880 gram MDMA was trying to be received by applicant/accused which is commercial quantity. Therefore according to them, Section 37 NDPS Act is applicable. They further submit that the applicant/accused has to

satisfy the twin conditions as provided U/s 37 NDPS Act but according to them he has filed. Therefore, they request to dismiss the bail application.

In rebuttal, Ld. Counsel for applicant/accused submits that no such secret information has been filed with the charge-sheet. According to him, the said document, if any, cannot be filed at this stage".

Submissions heard. Record perused.

It is the case of Ld. Counsel for applicant/accused that the investigating agency did not comply Section 42 NDPS Act. On perusal of judicial file, it is observed that the prosecution has not filed on record the information reduced in writing as per Section 42 NDPS Act with the charge-sheet.

In *Gulab Rai @ Chetan vs. State (NCT of Delhi)*, Bail Appln. 3840/2023 (supra) in para no. 8, the Hon'ble Delhi High Court had observed in para 8 that "this Court agrees with the counsel for Petitioner that provisions of Section 42 of NDPS Act have been followed more in violation than in compliance. Admittedly HC Amit, was the recipient of first information but the secret information was reduced in writing by Insp. Rakesh on a mere hearsay. While the prosecution tends to rely on the entry lodged in CCTNS by Insp. Rakesh, to show compliance of Section 42 of NDPS Act, in my view, this cannot be considered as an action compliant with the mandate of the said provision inasmuch as this does not controvert the contention of the Petitioner that the first recipient of the information reduced the same in writing".

Thus, in the aforesaid case, the police official who

had received first information did not reduce the secret information in writing, however, the another police official i.e. Inspector Rakesh had reduced the same but the Hon'ble Delhi High Court did not admit the said proceedings as compliance of Section 42 NDPS Act. In the case in hands, no report for compliance of Section 42 NDPS Act has been filed on record by the prosecution with the charge-sheet and therefore prima facie it can be presumed that the prosecution has not complied Section 42 NDPS Act and in view of aforesaid lacuna as well as the judgments relied upon by Ld. Counsel for applicant/accused, applicant/ accused **Mohit Jaiswal** is also admitted to bail on furnishing personal bond in the sum of Rs. 50,000/- with one surety in the like amount and subject to condition that :-

- (i) That applicant/ accused shall not, directly or indirectly, make any inducement, threat or promise to the complainant or any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (ii) That applicant/ accused shall upon his release provide his mobile number to the IO/ SHO and keep his such mobile 'Switch On' at all times.
- (iii) That applicant/ accused shall intimate to the IO/ SHO about any change in his mobile number or address;
- (iv) The applicant/ accused will not influence the witnesses nor tamper with any evidence;
- (v) That applicant/ accused shall not leave the country without permission of the Court;
- (vi) That applicant/ accused shall appear on each and every date of hearing before the Court.

Application stands **disposed of** accordingly.

The observations made on the merits of the case are purely for the purposes of deciding the present bail application and shall not be construed as expression upon the merits of the case.

Copy of the order be given dasti to the IO as well as to the Ld. Counsel for applicant/ accused and be communicated to the applicant/ accused through Jail Superintendent for information.

—*sd*—

(Virender Singh)

Special Judge, NDPS,

Central,THC, Delhi/06.02.2026

तिशेष न्यायाधीश (प्रदर्शनात्मक)

Special Judge (NDPS)

कानूनी विभाग, भवन नं. 222

Central District Court, Tis Hazari, दिल्ली-54

Tis Hazari Courts, Delhi-54

