

Regular Bail Application
State Vs. Prem Thapa
FIR No. 232/2024
PS Crime Branch
U/s 20/25/29 NDPS Act

Virender Singh
Special Judge (NDPS)-02
Central, THC, Delhi-110054

07.07.2025

This is an application seeking regular bail U/s 483 BNSS, 2023 filed on behalf of the applicant/accused Prem Thapa.

Present: Shri Kamal Akhtar, Ld. Addl. PP for State.
Shri Manas Agarwal, Ld. Counsel for applicant/accused.
IO ASI Mukesh Kumar in person.

Reply to bail application is filed. Copy supplied.

On request of Ld. Counsel for applicant/accused, matter is passed over for 11:30 AM.

— Sd —
(VIRENDER SINGH)

Special Judge (NDPS)-02,
Central, THC, Delhi/07.07.2025_(vp)



At 11:30 AM

Present: Shri Kamal Akhtar, Ld. Addl. PP for State.
Shri Aditya Aggarwal and Shri Manas Agarwal, Ld. Counsels
for applicant/accused.
IO ASI Mukesh Kumar in person.

Arguments heard on bail application.

Ld. Counsel for accused submits that the applicant/accused is falsely implicated in this case. He further submits that the applicant/accused was arrested in consequence of disclosure statement of accused Jameel allegedly from Room No. 13 in hotel situated at मजनूं का टीला, दिल्ली. He further submits that nothing has been recovered from the possession or at the instance of applicant/accused. He also argued that there is no public witness of the arrest of said accused persons and the CCTV footage of the said hotel is also not annexed with the charge-sheet. He further argued that mobile phone of applicant/ accused

was seized by the police on the day of his arrest i.e. on 21.11.2024. According to him, the applicant/accused allegedly took the name of co-accused Ganga Gurung Thapa and he disclosed to the police that he would come at a particular place after three days. According to him, after the arrest of applicant/accused, there was no communication between him and the said accused. He further argued that in today's era if parties are not communicating with each other for three days, then co-accused must have alert but he should not have come to the spot. He further argued that there is not any sort of communication between the applicant/accused and co-accused Ganga Gurung Thapa even before the day of his arrest.

He further argued that at the time of arrest, the applicant/accused was not supplied with the grounds of arrest. He has drawn the attention of the Court towards remand application, remand order and the arrest memo of the applicant/accused. He has also drawn the attention of this Court on Annexure – A3 and according to him, these are allegedly grounds of arrest but the signatures of applicant/accused are not available on the said grounds of arrest. He alleges that the signatures of the co-accused persons are available on their respective grounds of arrest, it means that the Annexure – A3 was prepared later on. He has relied upon *Criminal Appeal No. 3051-3052 of 2023 Pankaj Bansal Vs. Union of India And Ors.* decided on 03.10.2023; *Criminal Appeal (D. No. 42896/2023) Prabir Purkayastha Vs. State*, both delivered by Hon'ble Supreme Court of India and *Criminal Writ Petition No. 3604/2024 Bharat Pukhraj Chaudhary Vs. The State of Maharashtra And Ors.* decided on 25.10.2024 by Hon'ble High Court of Bombay etc. He further argued that the applicant/accused is not involved in any other case till date and he is in JC for last about one year. He further submits that applicant/accused is a resident of Nepal but that cannot be a ground to reject his bail. Therefore, he requests to admit the accused on bail.

Per-contra, Ld. Addl. PP and IO have vehemently opposed the bail application stating that allegations against the accused are serious in nature. According to them, firstly secret information was received and thereafter, co-accused Jameel was apprehended with 1192 Gram of Charas from the same



hotel wherein the applicant/accused was staying. According to them, it is the applicant/accused who has handed over the said 'charas' to the co-accused Jameel and from the disclosure statement of accused Jameel, the applicant/accused was arrested. They further argued that it is only on the disclosure statement of applicant/accused that the co-accused Ganga Gurung Thapa was apprehended and total 14.486 Kg. Charas was recovered from her possession or at her instance. According to them, it is the applicant/accused who had taken the police to the place where the said accused namely Ganga Gurung Thapa had to come. They further argued that the applicant/accused also disclosed the names of co-accused Ankit Buddha @ Thackray and Pradeep. According to them, there is CDR connectivity between the applicant/accused and the said accused persons and the applicant/accused was also available in the vicinity of area of co-accused Pradeep in Ballabhgarh, Haryana. They also submit that the grounds of arrest as well as reasons of arrest were informed to the applicant/accused. According to them, the grounds of arrest are available on the grounds of reasons. The grounds of arrest were supplied to applicant/accused orally and in writing. They also submit that co-accused Pradeep is already convicted in the similar case and the applicant/accused is a flight risk as he is resident of Nepal and he does not have any permanent address in Delhi. They further submit that the co-accused namely Bal Bahadur and Shermal are still at large and investigation qua them is still pending.

Submissions considered. Record perused.

At the outset, it is observed that though the investigating agency is claiming that the grounds of arrest were provided to accused in writing as well as orally but as per the judgment of Hon'ble Supreme Court of India and of Hon'ble High Court of Delhi, the grounds of arrest must be provided to accused in writing and further, it is also observed by Hon'ble Apex Court as well as by Hon'ble High Court of Delhi that there is difference between the grounds of arrest and reasons of arrest. As per the said judgments, the providing of grounds of arrest to accused is a compliance of Article 22 of the Constitution of India and after



knowing the grounds of arrest, the accused can come to know as to for which offence he has been arrested and provide opportunity to him for defending himself against custodial remand.

Further, it is observed that though the grounds of arrest were allegedly provided to the applicant/accused but his signatures are not available on the said grounds of arrest. On the other hand, the grounds of arrest of other co-accused persons bear their signatures. Thus, prima facie, the investigating agency has not complied with above said condition. Therefore, purely on technical basis, the applicant/accused **Prem Thapa is admitted to bail on furnishing of personal bond in the sum of Rs. 30,000/- with two sureties of like amount to the satisfaction of this Court as the accused is resident of Nepal and subject to the following terms & conditions :-**

(i) That applicant/accused shall attend each & every date of hearing and shall not leave the country without prior permission of the Court;

(ii) 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;

(iii) 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;

(iv) That applicant/accused shall intimate to the IO/ SHO about any change in his mobile number or address;

(v) That the applicant/accused will neither influence the witnesses nor tamper with any evidence;

(vi) That applicant/accused shall join the investigation as and when called by the IO.

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)-02,
Central, THC, Delhi/07.07.2025^(vp)



विशेष न्यायाधीश (एनडीपीएस)-02
Special Judge (NDPS)-02
केन्द्रीय थाना, लीस इन्दौर न्यायालय
Central District Court Thana No. 222
लीस इन्दौर न्यायालय, दिल्ली-54
Central Courts, Delhi-54

विशेष न्यायाधीश (एनडीपीएस)-02
Special Judge (NDPS)-02
केन्द्रीय थाना, लीस इन्दौर न्यायालय
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