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

CNR No. DLHC010270612026

+ **BAIL APPLN. 2396/2026**

MOHAN GUPTA

.....Petitioner

Through: Mr. Aditya Aggarwal with Ms. Shivani
Sharma, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Ram Kishan, ANTF, Crime
Branch.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

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05.08.2026

1. Applicant seeks regular bail in case arising out of FIR No.54/2023 dated 02.03.2023, registered at P.S. Crime Branch, for commission of offence under Section 21 of *Narcotic Drugs and Psychotropic Substances Act, 1985* (NDPS Act).
2. Based on a secret information received on 02.03.2023, the applicant was apprehended near Wazirabad Flyover, Timarpur, Delhi. A notice under Section 50 of NDPS Act was also served upon him and he was apprised about his legal rights, which he refused to avail. When the handbag, which he was carrying, was searched, 410 grams of *heroin* was recovered from his possession. It is in the abovesaid circumstances that the applicant has been arrested.
3. Charge-sheet has already been filed and the case is at the stage of trial.

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4. Sh. Aggarwal, learned counsel for the applicant refers to order dated 21.04.2025 whereby the applicant had approached this Court with the prayer for expediting the trial and this Court directed the learned Trial Court to examine the members of the raiding team expeditiously. Sh. Aggarwal submits that despite the fact that the abovesaid direction was passed more than a year back, prosecution has examined only one witness, whose evidence is still incomplete.

5. It is though admitted that the applicant is involved in other cases, it is also informed that he is on bail in such other matters. Reference has been made to one bail order passed by Coordinate Bench of this Court. He submits that while passing such order, learned Coordinate Bench was made aware about the fact of his involvement in other matters but while upholding his right to have a speedy trial, despite his being involved in other matters, he was granted bail. Reference has been made to order dated 01.04.2025 passed in Bail Appln.436/2024. While enlarging on bail, learned Coordinate Bench referred to *Rabi Prakash v. State of Odisha*, 2023 SCC OnLine SC 1109, *Naeem Ahmed Alias Naim Ahmad vs. Govt, of NCT of Delhi*, 2024 SCC OnLine SC 220, *Man Mandal & Anr. vs. State of West Bengal*, 2023 SCC OnLine SC 1868.

6. Nominal Roll of the applicant indicates him to be in twenties and incarceration period as of 3 years and 4 months.

7. As already noted above, despite there being a specific direction by this Court to expedite the recording of testimony of the raiding team members, there is not much progress in the matter.

8. There are in all 16 prosecution witnesses.

9. Hon'ble Apex Court in *Rabi Prakash* (supra), while granting bail to the



petitioner therein held that the prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

10. In *Badsha Sk. V. State of W.B.*: 2023 SCC OnLine SC 1867, bail was granted to the accused who had been in custody for more than two years when the trial had not commenced. In *Man Mandal* (supra) also, the accused had been in custody for almost two years and the Hon'ble Apex Court released him on bail, while observing that the trial was not likely to be completed in immediate near future. In *Dheeraj Kumar Shukla v. State of U.P.*: 2023 SCC OnLine SC 918, observing that though the quantity was commercial in nature and the provisions of Section 37 of the Act may, ordinarily, be attracted, in the absence of criminal antecedents and the fact that the accused was in custody for the last two and a half years, bail was granted by Hon'ble Supreme Court while dispensing with the conditions of Section 37 of NDPS.

11. The rigours of Section 37 of NDPS Act and the right provided under Article 21 of the Constitution of India have to be read harmoniously and not in juxtaposition. This Court in *Arinze Hillary Ali v. State of NCT of Delhi (In Bail Appln. No.1022/2026; DoD 27.04.2026)*, has also observed that all the factors must be considered holistically and while, applying the test under Section 37 of NDPS Act, it is to be ensured that the constitutional guarantee enshrined under Article 21 of the Constitution is not eclipsed.

12. Keeping in mind the overall facts of the case, *albeit*, without expressing any opinion over the merits of the case, the applicant is, hereby, admitted to bail on his furnishing personal bond and surety bond in a sum of Rs. 25,000/- with one surety each subject to the satisfaction of concerned learned Trial



Court/Chief Judicial Magistrate/Duty Judicial Magistrate First Class with the following conditions:-

- (i) Surety shall be local.
- (ii) Applicant shall not try to contact any witness, directly or indirectly.
- (iii) Applicant shall furnish a mobile number to concerned IO on which he can be contacted, if required. Such number shall remain operational and functional.
- (iv) Residential address of the applicant shall be got verified, before releasing him on bail.
- (v) The applicant shall not involve in any criminal activity as long as he is on bail in the present case. In case he indulges into any such activity, the prosecution would be at liberty to file an application seeking cancellation of bail before this Court.

13. The application stands disposed of in aforesaid terms.

14. A copy of this order be sent to the concerned learned Trial Court and also to the Jail Superintendent for necessary information and compliance.

MANOJ JAIN, J

AUGUST 5, 2026/st/js