



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

Reserved on: 3rd July, 2025.

Pronounced on: 21st July, 2025.

+ **BAIL APPLN. 591/2025 & CRL.M.A. 4214/2025**

SANEESH SOMAN

.....Petitioner

Through: Ms. Soujhanya Shankaran, Mr. Piyush Kumar, Ms. Anushka B. and Mr. Vipin Kumar, Advocates.

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Mr. Sahil Khurana and Ms. Iracy Sebastian, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. Through the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²), read with Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985³, the Petitioner seeks bail in NCB Case No. VIII/24/DZU/2023. This case relates to offences under Sections 8(c), 20(b), 22(c), 23(c), 27-A & 29 of the NDPS Act, which is currently pending before the Special Judge (NDPS-12), Patiala House District Court, Delhi.

Factual Background

2. The case of the prosecution, in brief, is as follows:

¹ "BNSS"

² "Cr.P.C."



2.1 Acting on specific intelligence, the Narcotics Control Bureau⁴ apprehended one Gajender Singh, aged approximately 23–24 years, at the DTDC Courier Office, Laxmi Nagar, Delhi, while he was attempting to book a parcel. Upon search of the said parcel, 15 LSD paper blots weighing 0.3 grams were recovered from his possession. Following this, a preliminary inquiry was conducted, and based on Gajender's instance, a further search at his residence led to the recovery of an additional 650 LSD blots in his presence.

2.2 In his statement under Section 67 of the NDPS Act, Gajender confessed to his role in the attempted shipment and named one Shainu Hatwar as the person under whose instructions he was acting. Shainu Hatwar was subsequently arrested and, in her statement under Section 67, she admitted to her involvement and explained the *modus operandi* of the drug distribution network. She further disclosed the name and contact details of Sarabjeet Singh, a resident of Jaipur, as being the supplier of the psychotropic substances.

2.3 Acting on this information, an NCB team proceeded to Jaipur and carried out a search of the premises belonging to Sarabjeet Singh. This resulted in the seizure of 9,006 LSD blots, 2.232 kilograms of Ganja, and a cash amount of ₹4,65,500/- from his residence. Sarabjeet Singh was arrested and, in his statement under Section 67, not only admitted to his role in the drug trafficking operation but also corroborated the version of co-accused Shainu Hatwar. He further revealed the details of four separate consignments, three of which containing 100 LSD blots, that had been

³ "NDPS Act"

⁴ "NCB"



dispatched by him. These included India Post consignment no. RR673997169PL and courier numbers W60822411, W60808434, and W60803432. Of these, courier W60822411 was delivered in Noida to one Manthan Raina; consignment RR673997169PL was sent to Pune; and courier W60803432 was destined for Kottayam, Kerala.

2.4 Acting on the disclosures made, the NCB successfully intercepted the consignments. One Manthan Raina, the named consignee of courier no. W60822411, was apprehended from the address in Noida mentioned on the parcel. Upon search and seizure, 84 LSD paper blots weighing approximately 0.7 grams were recovered from his possession. As regards consignment no. RR673997169PL of India Post, the same was traced to a post office in Pune, where it remained undelivered. Upon seizure and inspection, it was found to contain 5,006 LSD blots, collectively weighing approximately 84 grams.

2.5 In relation to courier no. W60803432, which had been dispatched to Kottayam, Kerala on 02nd June, 2023, a trap was laid by the NCB at the DTDC courier office in Kottayam to identify and apprehend the person who would arrive to collect the parcel. Mr. Nideesh Sankar, a DTDC employee present at the location, was requested to act as an independent witness to the search and seizure operation, and he agreed. Significantly, Mr. Sankar informed the NCB that the intended recipient of the courier had been persistently calling the office to inquire about the parcel's status. Based on this input, Mr. Sankar was instructed to contact the said number and request the caller to visit the office to collect the parcel.

2.6 Pursuant to the trap laid by the NCB, the Applicant, Saneesh Soman, arrived at the DTDC courier office in Kottayam to collect the said parcel. He



was apprehended at the spot, and in the presence of the independent witness, Mr. Nideesh Sankar, the search and seizure proceedings were duly conducted. Upon examination, the parcel in question was found to contain 100 LSD paper blots, collectively weighing approximately 3.5 grams. The contraband was sealed and seized in accordance with law. On the same day, the Applicant's statement was recorded under Section 67 of the NDPS Act, in which he purportedly admitted to his role in the offence and disclosed that he was acting in concert with one Punan C.M. @ Robin. The Applicant is also stated to have shown the investigating officers a WhatsApp image relating to the seized parcel. He was, thereafter, formally arrested for offences under Sections 8(c) read with Sections 22 and 29 of the NDPS Act.

2.7 The Applicant was produced before the jurisdictional Magistrate at Kakkanad, who granted a three-day transit remand to enable his production before the Special Judge (NDPS) at Patiala House Courts, New Delhi, where the complaint proceedings are pending. It is submitted that the chargesheet has since been filed, trial has commenced, and charges have been framed against the Applicant under Sections 22(c) read with 29 of the NDPS Act.

Submissions of the Applicant

3. Counsel for Petitioner raises the following grounds for seeking bail:

3.1 The entire prosecution against the Applicant rests on a tenuous foundation, and no material has been brought on record which directly implicates him in the commission of the alleged offence. The Applicant was an unwitting participant, drawn into the proceedings without any substantive evidence linking him to the narcotic substance in question.

3.2 The investigation pertaining to consignment under courier no.



W60803432, which the Applicant is alleged to have collected, is marred by serious procedural lapses and inconsistencies. According to the Applicant's statement recorded under Section 67 of the NDPS Act on 02nd June, 2023, he informed the officers that he had gone to collect the parcel at the request of his neighbour, one Punan C.M. @ Robin, and that he had no knowledge of its contents. The Applicant is neither the consignee on the parcel nor is the phone number or address mentioned therein traceable to him. He also specifically informed the officers that he had no acquaintance with either the sender, Raman Singh, or the named recipient, Varghese Kuruvilla. Despite these disclosures, no meaningful investigation was carried out to identify or trace the actual recipient or sender of the parcel. Additionally, no steps were taken to verify the role of Punan C.M. @ Robin, whose name was disclosed at the first instance by the Applicant.

3.3 The prosecution's case that the Applicant contacted the DTDC office using his mobile phone prior to arriving to collect the parcel is factually incorrect. The number cited by the NCB is, in fact, that of the DTDC Kottayam office itself, and not attributable to the Applicant. There has been no investigation to identify the individual who actually made the calls to inquire about the courier, thus casting serious doubt on the veracity of the NCB's claim.

3.4 There are no calls, messages or any financial transactions which links the Petitioner with the other co-accused who have been arrested. According to the prosecution's own version, the Applicant's alleged role is confined solely to collecting a parcel from the DTDC office in Kottayam. No incriminating material has been recovered from his possession or premises. Moreover, the investigating agency has neither conducted any search of the



Applicant's residence nor examined his financial or digital footprint to uncover any alleged connection with the broader drug distribution network. The assertion that the Applicant admitted to his involvement, or that of his friend Punan C.M. @ Robin, is wholly unsubstantiated and unsupported by any material on record.

3.5 The foundational requirement of "conscious possession" under the NDPS Act is absent in the present case. In the absence of conscious possession, it is argued that the statutory presumption under Section 54 of the NDPS Act is inapplicable. Reliance is placed on *NCB v. Ali Mohammad*⁵ and *Fabian Helmchen v. State of Goa*⁶ to submit that mere physical custody, without knowledge or dominion over the contraband, cannot attract penal consequences under the Act.

3.6 The Petitioner has continuously maintained that he had no knowledge of the parcel and was only collecting it for his neighbour - Punan C.M. @Robin. In this regard, he even showed the NCB officials the WhatsApp message sent to him by Punan @ Robin instructing him to go to collect the parcel. However, even after giving the contact details of Punan C.M. @Robin to the investigating officers and despite his mobile phone being seized by them, no investigation conducted by the NCB either to trace Punan @Robin or the actual intended recipient of the parcel. In this regard, the NCB has argued before the Trial Court that since the mobile phone of the Petitioner was password protected, no forensic examination could take place on the same. However, despite the Petitioner subsequently providing his password to the Investigating Officer, there has been no update on any

⁵ 2009 SCC OnLine Del 334

⁶ 2021 SCC OnLine Bom 1536



further investigation being taken up by NCB on this aspect.

3.7 The alleged confessional statement of the Petitioner under Section 67 of the NDPS Act did not lead to any recovery and is thus, inadmissible as evidence.

3.8 Moreover, there is a material discrepancy in the weight of the contraband allegedly recovered from the Applicant. As per the application under Section 52A filed by the NCB, the quantity of recovered contraband was indicated as 3.5 grams, however, in the order dated 24th July, 2023 passed on the said application, the total weight of the seized contraband has been noted by the Trial Court as 2.5 grams. This inconsistency casts serious doubts on the reliability of the said recovery. Reliance is placed on *Sarvothaman Guhan v. Narcotics Control Bureau*⁷ and *Rajesh Jagdamba Avasthi v. State of Goa*⁸.

3.9 The Petitioner is a law-abiding citizen, who has no prior criminal antecedents. Unlike the other co-accused, he has never been associated with any investigation regarding the sale and purchase of narcotic drugs through the dark net/online apps. There is no material linking him to the other co-accused or the larger drug smuggling syndicate unearthed by the NCB. There are no financial transactions which show that the Petitioner purchased any of the contraband which was seized from him. Therefore, the charge of conspiracy under Section 29 of the NDPS Act is not made out against the Petitioner.

3.10 The Petitioner has been languishing in prison, for more than 18 months and the trial is yet to commence. this prolonged incarceration

⁷ 2023 SCC OnLine Del 5643

⁸ (2005) 9 SCC 773



infringes upon the Petitioner's fundamental right under Article 21 of the Constitution and amounts to punitive detention. In light of the above submissions, it is evident that the twin conditions under Section 37 of the NDPS Act for grant of bail are made out in the present case in favour of the Petitioner.

Submissions of the Respondent – NCB

4. On the other hand, Mr. Arun Khatri, SSC for NCB strongly opposes the present application on the following grounds:

4.1 The Petitioner's plea of lack of "conscious possession" is untenable in the facts of the case. The record demonstrates that the Applicant made multiple telephonic enquiries with the DTDC courier office regarding the parcel in question, and upon being contacted by the DTDC employee on the same number, he promptly arrived at the office to collect it. No cogent or credible explanation has been offered by the Applicant for this active pursuit of the parcel, particularly if he was unaware of its contents. Reliance is placed on the judgment in ***Rakesh Kumar Raghuvanshi v. State of Madhya Pradesh***⁹ wherein the Supreme Court clarified that conscious possession does not only mean physical possession of the narcotic drug by a person but also being aware of its presence and nature. In the present case it is established that the Petitioner not only had the physical possession of the contraband but that he also had knowledge that the same contained illicit drugs.

4.2 The total quantity of the contraband recovered from the Applicant was 3.5 grams of LSD, which is above the prescribed commercial quantity

⁹ 2025 SCC OnLine SC 122



threshold of 0.1 gram, the stringent rigours of Section 37 of the NDPS Act are attracted. As such, the Applicant would have to discharge the burden of satisfying this Court as to there being reasonable grounds to believe that he is not guilty of the offence alleged and that he is not likely to commit any offence while on bail.

4.3 The Applicant was apprehended at the scene while attempting to take delivery of the contraband-laden parcel, which, as per the material gathered during investigation, had been dispatched by co-accused Sarabjeet. In this backdrop, the statutory presumption under Section 54 of the NDPS Act squarely applies, and the onus is on the Applicant to disprove the same. The NCB maintains that the evidence collected thus far, including the nature of the contraband, the statements under Section 67, and the coordinated recoveries, point towards the Applicant's involvement in a broader conspiracy for trafficking in psychotropic substances.

4.4 The chargesheet has been filed and charges have been framed; the trial is at an incipient stage. The apprehension of the Applicant absconding or interfering with the evidence cannot be ruled out at this stage. Given the seriousness of the offence and the nature of the allegations, no case for grant of bail is made out.

Analysis

5. The Court has given due consideration to the submissions urged by the parties. The contraband in question, i.e., 100 LSD blots weighing approximately 3.5 grams, was recovered from a courier parcel which the Applicant had come to collect from the DTDC office in Kottayam. Given that the recovered quantity exceeds the prescribed threshold of 0.1 gram for



LSD, it qualifies as a commercial quantity under the NDPS Act, thereby invoking the statutory embargo under Section 37 of the Act. Therefore, for the grant of bail, the Applicant must satisfy the twin requirements under Section 37(1)(b) of the Act, i.e., (i) the Court must be satisfied that there are reasonable grounds to believe the accused is not guilty of the alleged offence, and (ii) the accused is not likely to commit any offence while on bail.

6. On a comparative assessment, the allegations against the Applicant are distinguishable from those levelled against the other co-accused. The Applicant was apprehended while seeking delivery of a parcel which, as per NCB's intelligence input, contained psychotropic substances. The recovery of contraband is thus linked to the parcel he came to collect. Nothing was recovered from his person at the time of arrest, nor has the NCB conducted a search of his residence or unearthed any other material which would suggest involvement in the alleged drug trafficking network. In contrast, the other co-accused were arrested pursuant to specific recoveries from their residences or based on substantive links with multiple consignments. In this light, the case of the present Applicant appears to rest on a relatively narrower factual substratum.

7. The prosecution alleges that the Applicant was in conscious possession of the contraband on the ground that he had made repeated calls to the DTDC office to inquire about the parcel, and that he thereafter appeared at the courier office to collect it. It is further asserted that the Applicant was apprehended red-handed immediately after taking possession of the parcel. However, a closer examination of the record reveals that the phone number cited by the prosecution, ending in xxxxxx3290, allegedly



used to contact the DTDC office, has been described in the panchnama/seizure memo dated 01st June, 2023 itself as belonging to the DTDC Kottayam office. This discrepancy was duly brought to the attention of the Trial Court, which, on an application moved by the Applicant, directed preservation of the Call Detail Records¹⁰ of both the Applicant's mobile number and that of the DTDC office. Moreover, the Applicant's mobile phone was seized at the time of arrest and yet there is no conclusive determination by NCB as to whether the said calls were indeed made by the Applicant. In light of this ambiguity, and the absence of any forensic corroboration tying the Applicant to the number that initiated the calls, this Court is of the view that the benefit of doubt must enure to the Applicant at this stage.

8. Further, the Applicant was neither the consignee of the parcel nor was the package addressed to his residence. The parcel was ostensibly dispatched in the name of "Raman Singh" from Jaipur and addressed to one "Varghese Kuruvilla" in Kottayam. However, as per the disclosure statement of co-accused Sarabjeet, he himself was responsible for dispatching the parcel. This suggests that a pseudonymous identity may have been employed for the consignor. As regards the consignee, the Applicant has consistently stated that he has no acquaintance with any person by the name of Varghese Kuruvilla and that he had merely gone to collect the parcel on the instructions of his neighbour, one Punan C.M. @Robin. It is further evident that even the address mentioned on the parcel does not pertain to the Applicant.

9. The Applicant emphasises that his involvement was limited to

¹⁰ "CDRs"



collecting the parcel at the behest of his neighbour and that he had no knowledge of its contents. It is his case that he showed the investigating officials a WhatsApp message received from the said Punan C.M. @Robin, which allegedly contained the parcel tracking details along with a request to collect the same from the courier office. In furtherance of the investigation, the Applicant voluntarily surrendered his mobile phone to the Investigating Agency to facilitate forensic analysis and corroborate his version. When informed that the device was password protected and the data could not be accessed, he provided the password to enable forensic extraction. Despite this level of cooperation, the NCB has neither undertaken any meaningful inquiry into the identity of the said Punan C.M. @Robin nor filed any supplementary chargesheet addressing the information supplied by the Applicant.

10. Insofar as NCB's reliance on the Applicant's disclosure statement under Section 67 of the NDPS Act is concerned, it is relevant to note that no recovery was effected pursuant to the said statement. Furthermore, there appears to be no independent or contemporaneous evidence on record, such as CDRs, text messages, financial transactions, or any other corroborative material, linking the Applicant to the trafficking operation or demonstrating his prior knowledge of the contents of the parcel. It is well-settled that a confessional statement recorded under Section 67, in the absence of substantive corroboration, does not carry probative value and cannot be the sole basis for sustaining the accusation, particularly in light of constitutional safeguards under Articles 20(3) and 21 of the Constitution¹¹.

11. It is equally well settled that the concept of 'conscious possession'



under the NDPS Act necessitates both, knowledge of the contraband and the ability to exercise control over it¹². In *Mohan Lal v. State of Rajasthan*¹³, the Supreme Court held that ‘conscious possession’ entails not only physical custody of the contraband but also the presence of *animus*, i.e., knowledge of and intention to exercise control or dominion over the substance. Accordingly, the prosecution is required to establish that the accused had personal knowledge of the existence of the contraband and had the intent to maintain control over it.

12. The Applicant has consistently maintained that he had no knowledge of the contents of the parcel and had collected the same solely at the request of his neighbour, Punan C.M. @Robin, who had provided him the consignment details *via* WhatsApp. While the true extent of his knowledge and involvement will undoubtedly be subject to evidence at trial, at this stage, the prosecution has not produced any direct or circumstantial material to demonstrate that the Applicant knew or ought to have known about the nature of the contents. Thus, the act of merely receiving a package, absent any material to suggest that the Applicant was aware of its illicit contents, *prima facie*, cannot by itself satisfy the legal threshold of “possession” under the NDPS Act.

13. Taking a holistic view of the material presently available, the role ascribed to the Applicant appears confined to the act of collecting the parcel, with the prosecution primarily relying upon his alleged confessional statement under Section 67. There are no incriminating call records, financial transactions, or digital communications linking him to the co-

¹¹ *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1

¹² *Rakesh Kumar Raghuvanshi v. State of Madhya Pradesh*, 2025 SCC OnLine SC 122



accused or trafficking network. In the absence of such corroboration, and given the settled position that confessions under Section 67 are insufficient without supporting evidence, this Court is of the view that the benefit of doubt ought to enure to the Applicant at this stage. Accordingly, for the limited purpose of bail, there are reasonable grounds to believe that the Applicant is not guilty of the offence alleged. The first limb of Section 37(1)(b) of the NDPS Act is therefore satisfied.

14. As regards the second requirement under Section 37(1)(b) of the NDPS Act, it is pertinent to note that the Applicant does not have any prior criminal antecedents. There is nothing on record to suggest that he poses a flight risk or that he is likely to commit any offence while on bail. On the contrary, the Applicant has cooperated with the investigation, including by voluntarily handing over his mobile phone and subsequently providing the password, as directed by the Trial Court. As per the Nominal Roll placed on record, the Applicant has been in custody for a period of 2 years as of today, and his conduct in jail has been noted to be satisfactory. In these circumstances, this Court finds no material to conclude that the Applicant would misuse the liberty of bail, if granted. Accordingly, the second limb of the twin conditions under Section 37(1)(b) of the NDPS Act also stands satisfied.

15. In light of the above, the Court is inclined to accept the Applicant's prayer for bail. Therefore, the Applicant directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate/Jail Superintendent, subject to the following conditions:

¹³ (2015) 6 SCC 222



- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
 - b. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
 - c. The Applicant shall appear before the Trial Court as and when directed;
 - d. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
 - e. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
16. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
17. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial or be taken as an expression of opinion on the merits of the case.
18. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

JULY 21, 2025

as