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

Date of Decision: 30th May, 2026

+ BAIL APPLN. 4822/2025 & CRL.M.A. 37052/2025, CRL.M.A. 8797/2026, CRL.M.A. 8798/2026, CRL.M.A. 9018/2026, CRL.M.A. 9019/2026, CRL.M.A. 10837/2026, CRL.M.A. 10838/2026

YUSUF AAJAM

.....Petitioner

Through: Mr. Akshay Bhandari, Ms. Megha Saroa, Mr. Kushal Kumar, Mr. Janak Raj Ambavat and Mr. Anmol, Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI, J.

By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks regular bail in case FIR No.258/2023 dated 06.10.2023 under sections 22/29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') at P.S.: Special Cell, Delhi.

2. At the outset Mr. Akshay Bhandari, learned counsel for the petitioner has explained that his earlier regular bail petition bearing BAIL APPLN. No.1526/2025 was dismissed as withdrawn, since the petitioner wanted to file a fresh bail petition with additional grounds and documents.
3. Notice on this petition was issued on 11.12.2025.



4. Status report dated 07.01.2026 has been filed on behalf of the State.
5. Nominal roll dated 24.01.2026 has been requisitioned from the Jail Superintendent.
6. This court has heard Mr. Bhandari, learned counsel for the petitioner; as well as Ms. Shubhi Gupta, learned APP for the State.

PETITIONER'S SUBMISSIONS

7. In the context of the allegations made against him in the subject FIR, the petitioner has made the following principal submissions:
 - 7.1. It is submitted that though the petitioner's name has been brought into a matter that concerns several other accused persons, the petitioner was arrested on 08.04.2024 basis the disclosure statements of one Rahul Varshney and one Tushar Aggarwal, who (latter) were arrested on 04.04.2024 for allegedly supplying contraband to one Zubair. In their disclosure statements the said two persons are claimed to have said that they used to procure contraband from the present petitioner.
 - 7.2. It is pointed-out that both Rahul Varshney and Tushar Aggarwal have already been admitted to regular bail.
 - 7.3. It has been argued on behalf of the petitioner, that the principal allegation against the petitioner is that he was the owner of a firm by the name of Sunrise Pharmaceuticals ('Sunrise Pharma'), and that three other firms, namely NA Pharma, Medisales Pharmaceuticals ('Medisales Pharma') (alleged to have been run by the petitioner in the name of Lavlesh Gupta), and AC Pharmaceuticals (alleged to have been run by the petitioner in the name of Anil Chaudhary), the allegations being that the said three



firms were also being operated by the petitioner, though pharmaceutical drugs were purchased in the names of these firms.

7.4. Mr. Bhandari has submitted that the principal allegation against the petitioner is that he used to purchase medicines in the name of the said three firms and would sell the same to co-accused Rahul Varshney and Tushar Aggarwal; with the crux of the allegation being that Rahul Varshney and Tushar Aggarwal further sold the pharmaceutical drugs to one Zubair, who sold them onward to one Faizan Beg. It has been pointed-out, that it is the prosecution's own case that Rahul Varshney used to run a firm called Kashish Pharma, which firm held a valid pharmaceutical license; and Tushar Aggarwal used to run a firm called Bajrang Pharma, which also held such license. It has been argued that regular monetary transactions were taking place between the petitioner and the said two persons, through their firm accounts, and the said two persons were fully aware of such transactions. It has been submitted that the said two co-accused were educated persons and held drug licenses in the names of their firms and were (otherwise) engaged in a legitimate pharmaceutical business.

7.5. It has been contended on behalf of the petitioner that it is also not in dispute that the petitioner was holding a valid license for running his pharmaceutical business; and the only incriminating circumstance canvassed against the petitioner is that 'contraband' belonging to the firms NA Pharma and Medisales Pharma was allegedly recovered from the godown of Sunrise Pharma. However, it is argued that it is also the prosecution case that the firms NA



Pharma and Medisales Pharma held valid drug licences; and therefore, it is nobody's case that the possession of the medicines in question either by NA Pharma, Medisales Pharma, or by Sunrise Pharma by these licensed entities was *per se* illegal.

- 7.6. In this backdrop, it has been alleged that the prosecution alleges that 41 boxes of *Spasmoproxyvon Plus* having batch No. XY10156 were recovered from Faizan Beg; and that these bore the same batch number as medicines ordered by the petitioner in the name of his hired firms, which were then sold by the petitioner to Rahul Varshney and Tushar Aggarwal, who in turn supplied them to Zubair, who then made them available to Faizan.
- 7.7. Mr. Bhandari has argued that clearly, even on the prosecution's own reckoning, the petitioner was holding certain pharmaceutical drugs which had been legitimately purchased by him in the name of one or more of his duly licensed firms; and that he sold those pharmaceutical drugs to Rahul Varshney and Tushar Aggarwal, who (latter) were themselves valid pharmaceutical license holders. It has been submitted that therefore, what Rahul Varshney and Tushar Aggarwal did with those pharmaceutical drugs after purchasing them from the petitioner, cannot be held against the petitioner.
- 7.8. Based on the above, it has been argued on behalf to the petitioner, that even taking the prosecution case at its highest, the petitioner's role is *confined to selling pharmaceutical drugs, held by the petitioner in validly licensed firms, to duly licensed persons viz., Rahul and Tushar*, who allegedly thereafter sold the same onward



to Zubair, an unlicensed person, and then to Faizan. It has been argued that there is no allegation that the petitioner had any direct link, contact, or was in conspiracy with Zubair or Faizan, who were ultimately found in possession of the pharmaceutical drugs without license.

7.9. It has further been argued, that the petitioner's financial transactions with the said two co-accused persons are also consistent with legitimate wholesale business in pharmaceutical products to the said two persons, viz., Rahul Varshney and Tushar Aggarwal.

7.10. It has been further submitted on behalf of the petitioner, that it is the prosecution allegation that on 12.04.2024, at his instance, commercial quantity of *Codeine phosphate* (8.9668 kg) and *Tramadol* (32899.5 gms) was allegedly recovered from the godown of Sunrise Pharma. But is pointed-out that it is also the case that the so-called contraband was found along with bills in the name of the petitioner's hired firms; however, the *only irregularity* alleged is that the pharmaceutical drugs were found stored in the *godown of Sunrise Pharma* whereas these had been purchased on orders placed in the names of the other firms.

7.11. It has been urged that it is not even the prosecution case that *possession and sale of the said pharmaceutical drugs was illegal*, inasmuch as the petitioner and his hired firms *all* had valid licenses, apart from the fact that the persons to whom the petitioner sold the pharmaceutical drugs also had valid licenses. Accordingly, the allegation relates only to the *place of storage* of the pharmaceutical



drugs, which at best, constitutes a regulatory lapse under the Drugs & Cosmetics Act, 1940 ('Drugs & Cosmetics Act'); but no offence is made-out under the NDPS Act, much less any offence that would attract the rigours of section 37 of the NDPS Act.

7.12. In support of this proposition, the petitioner has placed reliance on the order in ***Subodh Kumar Sagar @ Subodh Kumar Sah vs. The State of Bihar***,¹ wherein, according to the petitioner, a license holder from whose house cough syrup was recovered – *stored at a location not permissible under the license conditions* – was granted anticipatory bail by the Supreme Court.

7.13. Further reliance has been placed on ***Hiteshbhai Dhirubhai Olakiya vs. The State of Gujarat***,² where, as per the petitioner, bail was granted despite a previous NDPS involvement, in a situation where the accused held a valid license but the person to whom he sold the medicines had an expired license. It is submitted that the petitioner's case is on a stronger footing than the case of *Hiteshbhai Dhirubhai Olakiya*, since in the present case even the immediate purchasers of the pharmaceutical drugs, namely Rahul Varshney and Tushar Aggarwal possessed valid pharmaceutical licenses.

7.14. Most importantly, Mr. Bhandari has assailed the search and seizure conducted at the Sunrise Pharma godown, alleging that section 42 of the NDPS Act had not been complied-with, which vitiates the search and seizure operation entirely.

¹ Order dated 15.02.2023 in SLP (Crl.) No. 12013/2022

² Order dated 24.07.2025 in SLP (Crl.) No. 4947/2025



7.15. It has been contended that the alleged supplementary disclosure statement dated 11.04.2024, which is claimed to contain information regarding the contraband being stored in the godown, was recorded by SI Vishal Malik *but* this information was *never forwarded* by the said police officer to his superior officer as mandated by section 42(2) NDPS Act. It has further been urged, that subsequently, the purported compliance of section 42 was carried-out by Inspector Manender Singh, who is stated to have reduced the information into writing and forwarded the same to the superior officer.

7.16. Mr. Bhandari has argued that such a course of action is impermissible in law, since the statute requires that the *officer who first receives the information must himself reduce it into writing and forward it* to a superior officer, failing which the safeguards in section 42 are rendered illusory.

7.17. In support of this submission, the petitioner has placed reliance on a Co-ordinate Bench decision of this court in ***Zakey Ahmed vs. State of NCT of Delhi & Anr.***,³ in paras 10-13 whereof the court has held that compliance under section 42 of the NDPS Act must be by the officer who first receives the information, and that *hearsay information* recorded by another officer would not satisfy the mandate of the statute.

7.18. Reliance has also been placed by the petitioner on ***Gulab Raj @ Chetan vs. State (NCT of Delhi)***,⁴ to submit that non-compliance

³ Judgment dated 17.07.2025 in BAIL APPLN. No. 817/2025

⁴ Order dated 19.01.2024 in BAIL APPLN. No. 3840/2023



or inadequate compliance of section 42 can be canvassed even at the stage of bail and that the consequence of such non-compliance goes to the root of the prosecution case.

7.19. The petitioner has further invoked the decision in *Sarija Bano alias Janarthani alias Janani & Anr. vs. State through Inspector of Police*⁵, to assert that the issue of non-compliance of mandatory provisions such as section 42 is a relevant consideration even at the bail stage and that the benefit thereof can be extended in favour of the accused.

7.20. To meet the prosecution objection as to his antecedents, relying on *Prabhakar Tewari vs. State of Uttar Pradesh & Anr.*,⁶ the petitioner has submitted that mere previous involvement is not, by itself, a ground to reject bail and that the specific role of the accused in the earlier case(s) has to be examined.

7.21. It has been submitted that the petitioner has been in the pharmaceutical drugs business for a long time and had earlier been accused in NCB Case No.13/2013 under sections 8/21 NDPS Act, in which he was granted bail *inter-alia* on the grounds that there was no recovery from him; that the firm had valid licenses; and the quantity of contraband in the mixture was found to be below the prescribed offending limits. It has been further clarified, that though the petitioner is also an accused in FIR No. 977/2013 under section 420 IPC, he is already on bail in that case.

⁵ (2004) 12 SCC 266, para 7

⁶ (2020) 11 SCC 648, para 7



7.22.It has been argued that none of the past involvements have culminated in the petitioner being convicted, and therefore such involvements cannot, by themselves, justify the petitioner's continued pre-trial incarceration in the present matter.

7.23.The petitioner has also invoked the issue of delay in trial, asserting that he has been in custody for *more than 02 years*; but that charges have yet to be framed; and that *44 prosecution witnesses* have been cited in the charge-sheet, thereby clearly indicating that trial is likely to be protracted.

7.24.To bolster his submissions in relation to prior involvements in NDPS cases and the delay in trial, the petitioner has placed reliance on the following judicial precedents: ***Deepak Khurana vs. Narcotics Control Bureau***,⁷ ***Mohd. Hakim vs. State (NCT of Delhi)***,⁸ ***Arpan alias Babloo vs. State***,⁹ ***Zahur Haider Zaidi vs. Central Bureau of Investigation***,¹⁰ and ***Sahil Sharma alias Maxx vs. State Govt of NCT of Delhi***.¹¹

7.25.On the strength of the aforesaid submissions, it has been contended on behalf of the petitioner that there is no material to show that he was part of any drug trafficking network; or that he has done anything beyond the scope of his licensed wholesale pharmaceutical business; and that the mere irregularity in storage is, at best, a regulatory infraction under the Drugs & Cosmetics Act

⁷ Order dated 23.07.2025 in BAIL APPLN. No.2119/2025

⁸ Judgment dated 06.10.2021 in CRL. A. No.170/2021

⁹ Judgment dated 25.03.2025 in BAIL APPLN. No.4280/2024

¹⁰ Order dated 07.05.2019 in Criminal Appeal No.605/2019

¹¹ Judgment dated 03.12.2025 in BAIL APPLN. No. 3068/2025



and not an offence under the NDPS Act; and, most importantly, there is non-compliance of section 42 NDPS Act; and that, in any event, prolonged incarceration; the absence of any prior conviction; and parity with the co-accused, who stand admitted to bail, entitle the petitioner to the concession of regular bail.

STATE'S SUBMISSIONS

8. *Per contra*, relying on its status report and written submissions, the State has vehemently opposed the prayer for bail, submitting that the present case involves a well-organized drug trafficking network, in which the petitioner plays a central and indispensable role.
9. Learned APP appearing for the State has traced the genesis of the case to the secret information received on 06.10.2023 regarding Faizan Beg, who was alleged to be planning to transport a large quantity of narcotic substances. It has been submitted, that part of a large ring of drug traffickers, one Zubair disclosed that he had procured contraband from co-accused Rahul Varshney and Tushar Aggarwal, who were arrested on 04.04.2024; and based on their interrogation, the petitioner was arrested on 08.04.2024.
10. The State has asserted that at the petitioner's instance, a search of the godown of Sunrise Pharma resulted in the recovery of commercial quantities of *Tramadol* and *Codeine Phosphate* in various branded capsules and cough syrups, all of which stand detailed in the status report.
11. The State has pointed-out that in addition to Sunrise Pharma, the petitioner had been operating three other firms, namely NA Pharma, Medisales Pharma and AC Pharmaceuticals, which were nominally in



the names of other persons, but were in reality, hired or rented firms controlled and operated by the petitioner, and that he used these entities to procure and distribute contraband.

12. To substantiate the petitioner's operational control over the businesses, the State has relied on the Call Detail Records showing 217 calls between the petitioner and Rahul Varshney, and 349 calls between the petitioner and Tushar Aggarwal during the period 01.07.2023 to 04.04.2024, arguing that such high-frequency communication is consistent with ongoing illicit business dealings.
13. The State has further submitted that there are substantial financial transactions from Tushar Aggarwal to the account of the petitioner, many in the form of cash deposits, whose slips were recovered from the chats between Tushar Aggarwal and the petitioner, and which have been verified with the bank statements of Sunrise Pharma, establishing a strong monetary trail of proceeds from the sale of psychotropic substances.
14. It has also been pointed-out that photographs recovered from the mobile phone of the petitioner show invoices, bills, and transaction records in the names of Medisales Pharma and NA Pharma, as well as photographs of *codeine* syrups, which are the very brands recovered from the godown of Sunrise Pharma along with bills in the names of these firms as well as one AC Pharmaceuticals.
15. In their status report, the State has further narrated that account statements of AC Pharmaceuticals show large financial transactions for purchasing contraband substances, and NA Pharma and Medisales Pharma transferring the same contraband to other firms, thereby



indicating a circular flow of narcotics through entities controlled by the petitioner.

16. The State has also relied upon statements of Lavlesh Gupta (Medisales Pharma) and Anil Chaudhary (AC Pharmaceuticals) recorded under section 161 Cr.P.C., who, according to the status report, have categorically stated that the petitioner did all formalities for obtaining the licenses and opening the bank accounts, kept all documents, made them sign blank papers for placing orders, paid them monthly commission and that they had no knowledge about procurement of contraband or operation of the firms, thereby showing that the petitioner was the real operator.
17. The State has also emphasized that invoices of the recovered contraband in the name of NA Pharma and Medisales Pharma were seized from the godown of Sunrise Pharma.
18. In their submissions, the State has specifically addressed the petitioner's argument on non-compliance of section 42 of the NDPS Act, contending that the petitioner was arrested on 08.04.2024 and that his supplementary disclosure statement was recorded by SI Vishal Malik on 11.04.2024, which was reduced into writing by way of a general diary entry by Inspector Manender Singh, who (latter) forwarded the same to the ACP on the same day; and the ACP then authorised the search and seizure at the Sunrise Pharma godown.
19. In support of its contention on section 42 of the NDPS Act, the State has placed reliance on the judgment of the Supreme Court in ***Karnail Singh***



vs. State of Haryana,¹² to argue that *only total non-compliance* with section 42 vitiates the trial; and that “whether there is adequate or substantial compliance with section 42 or not is a question of fact to be decided in each case.” It has been submitted, that in the present case, there has been *substantial, if not total*, compliance.

20. It has further been contended that the judgment in *Zakey Ahmed*, relied upon by the petitioner, is distinguishable on facts, since in that case the first information received by an Assistant Sub-Inspector was *never reduced into writing* by him, whereas in the present case the first information pertaining to the godown was recorded in writing by SI Vishal Malik and thereafter carried forward by Inspector Manender Singh, which is substantial satisfaction of the statutory mandate.
21. Insofar as the petitioner’s contention, that the seizure of pharmaceutical drugs from the Sunrise Pharma godown, at worst, amounts to infraction of rules under the Drugs & Cosmetics Act is concerned, the State has drawn attention to section 80 of the NDPS Act and has placed reliance of *Union of India & Anr. vs. Sanjeev V. Deshpande*¹³ to argue that the provisions of the NDPS Act are “in addition to, and not in derogation of” the Drugs and Cosmetics Act, and that contravention of licensing conditions under the latter can form the basis of prosecution under section 22 NDPS.
22. The State has further argued that the petitioner had the requisite *mens rea* from the inception, inasmuch as he was simultaneously operating four firms – Sunrise Pharma, Medisales Pharma, NA Pharma and AC

¹² (2009) 8 SCC 539

¹³ Judgment dated 12.08.2014 in Criminal Appeal No.660/2007, para 35



Pharmaceuticals – using the latter three firms as fronts, with their ostensible owners being paid commission, while the petitioner controlled all dealings and used these entities to procure, stock and distribute psychotropic substances in contravention of law.

23. On the aspect of storage, the State has acknowledged that certain recoveries were supported by invoices but it has been contended that the illegality lies in the petitioner's deliberate act of storing drugs purchased under invoices of rented firms (*viz.*, NA Pharma and Medisales Pharma) at the godown of Sunrise Pharma, instead of holding them at the licensed premises of those firms, which constitutes violation of the conditions of the licenses and attracts section 22 NDPS Act.
24. The State has also submitted that the present case is at the stage of framing of charges, and that grant of bail at this juncture would prejudice the proceedings before the learned trial court.
25. It has further been argued, that the petitioner does not stand on parity with the co-accused who have been granted bail, since his role, the volume of contraband linked to him, and the degree of control the petitioner exercised over the network are qualitatively different and far more grave.
26. The State has also drawn attention to the petitioner's nominal roll, which records that the petitioner has been found to be involved in another NDPS case at Lucknow; and has been in custody only for about 1 year 9 months as of 29.12.2025. The State has submitted that the petitioner's antecedent involvement, coupled with the present large commercial quantity and the structured network, constitutes a significant factor against grant of bail to him.



27. Finally, relying upon the law laid down by the Supreme Court in *Narcotics Control Bureau vs. Mohit Aggarwal*,¹⁴ the State has contended that the additional twin conditions of section 37 NDPS Act are not satisfied in favour of the petitioner, since the material on record, including recoveries, documentary trail, CDRs, financial transactions and witness statements, provide “credible, plausible” grounds to believe that the petitioner is involved in trafficking of commercial quantities of contraband, and there is no basis to conclude that he is not guilty or that he is not likely to commit an offence while on bail.
28. On these premises, the State has prayed that the present application for regular bail be rejected, submitting that the investigation has unearthed substantial material pointing to the petitioner’s integral role in a drug trafficking network and that releasing him at this stage would not be in the interests of justice.

DISCUSSION & CONCLUSIONS

29. This court has heard learned counsel for the petitioner and learned APP for the State, and has also considered the material placed on record.
30. At the outset, it requires to be noted that the submissions advanced on behalf of the petitioner that are relevant for purposes of the present consideration rest on *four facets* : *first*, the alleged non-compliance of section 42 NDPS Act in relation to the search of the Sunrise Pharma godown; *second*, the contention that the pharmaceutical drugs in question were bought, held, and sold by the petitioner under valid pharmaceutical licenses, and that the principal allegation is only that

¹⁴ Judgment dated 19.07.2022 in Criminal Appeals Nos. 1001–1002 of 2022



these were stored at a place other than the premises of the business entity in whose name they were bought; *third*, the prolonged incarceration of the petitioner coupled with evident delay in trial; and *fourth*, parity with co-accused who already stand admitted to regular bail.

31. Insofar as the first aspect is concerned, the petitioner has specifically urged that the information leading to the recovery from the godown was contained in his supplementary disclosure statement recorded by SI Vishal Malik, but the statutory requirement under section 42(2) NDPS Act of forwarding such information to the immediate superior was not complied-with by the said officer. On the other hand, the State has submitted that on 11.04.2024 the information was recorded by SI Vishal Malik, and was thereafter reduced into writing by way of a general diary entry by Inspector Manender Singh, who (latter) forwarded the same to the ACP on the same day, culminating to the ACP granting requisite approval for the search. The State has argued that this amounted to *substantial compliance* with the mandate of section 42(2) of the NDPS Act.
32. *Prima-facie*, the sequence as emerging from the rival submissions indicates that the information was *first received* and recorded in the supplementary disclosure statement by SI Vishal Malik, whereas the communication upwards to the superior officer was admittedly done by Inspector Manender Singh by way of a GD entry, which the latter recorded though he was not the person who had received the information in the first place.
33. At this stage, without entering into a final adjudication on the issue, this court finds force in the submission of the petitioner that the safeguard



embedded in section 42 of the NDPS Act is intended to ensure contemporaneous recording and transmission of information *by the officer who receives it*, so as to preclude the possibility of reinterpretation, embellishment or interpolation at a later stage.

34. The petitioner has relied upon *Zakey Ahmed* to contend that the officer who *first* receives the information must *himself* comply with the statutory mandate; and that such compliance cannot be substituted by another officer *acting on what is hearsay information* in his hands, even if by reducing it into writing. Though the State seeks to distinguish the said decision and has placed reliance on *Karnail Singh* to contend that *substantial compliance* would suffice, the facts brought on record in this case do raise a debatable issue as to whether the mandatory safeguard under section 42 of the NDPS Act was adhered to in its true sense, particularly when the forwarding of information to the superior officer did not emanate from the officer who had first received the information.
35. At the stage of consideration of bail, the court is not expected to render any definitive findings which may prejudice either side at the trial; nevertheless, where the legality of the search itself *is put in issue* on the basis of an arguable infraction of a mandatory statutory safeguard, that would certainly be a relevant factor while testing the prosecution case on the touchstone of section 37 NDPS Act.
36. The second aspect pertains to the nature of the alleged contravention. The petitioner has consistently maintained that Sunrise Pharma, NA Pharma, Medisales Pharma, and AC Pharma were *all entities that hold valid pharmaceutical licences* and that the medicines recovered from the godown were supported by purchase bills and invoices. At least at this



stage, the prosecution does not dispute the pharmaceutical licenses in favour of the said firms; indeed, the gravamen of the allegation, even as articulated by the State, is that pharmaceutical drugs purchased in the name of the other firms were stored in the godown of Sunrise Pharma rather than at the designated premises of the respective firms, and that the chain of lawful sale has not been fully demonstrated.

37. In light of the above, this court finds that the present matter is not one where *wholly illicit* pharmaceutical drugs have been recovered from a person having *no lawful permission* to possess the drugs in question.
38. Therefore *prima-facie*, the issue appears to be whether the petitioner's alleged conduct is, in substance, a case of *licensed possession* coupled with *improper storage* and possible breach of license conditions; or whether the material presently available unmistakably points-to drug trafficking by the person.
39. The State is justified in contending that contravention of license conditions and failure to maintain invoices or sale records *may* attract penal consequences, and by virtue of section 80 of the NDPS Act, may have relevance under the NDPS framework as well. However, the petitioner's contention is that what is attributed to him is the sale of pharmaceutical drugs to Rahul Varshney and Tushar Aggarwal, who themselves possessed pharmaceutical licenses; and that the core irregularity alleged against him is that he stored drugs belonging to other firms in the Sunrise Pharma godown. This contention raised by the petitioner cannot be brushed aside at this stage, particularly when the invoices for purchase of the pharmaceutical drugs were also recovered from the said godown.



40. The precedents cited on behalf of the petitioner, including *Subodh Kumar Sagar*, and *Hiteshbhai Dhirubhai Olakiya*, have been pressed into service to contend that where the allegation substantially concerns *licensed stock* having been kept at an *improper place* or *sold in a disputed manner* under the licensing regime, a case for grant of bail becomes stronger.
41. Without expressing any final opinion on the applicability of the aforesaid precedents, this court finds that the licensing dimension of the case does introduce a significant arguable element which, at least for the purpose of bail, dilutes the prosecution's allegation that the petitioner is involved in straightforward illicit possession of contraband.
42. The third aspect relates to the petitioner's prolonged custody and the evident delay in trial. The petitioner has been in custody since 08.04.2024, and the status report itself records that the matter is still at the stage of charge, with the next date before the learned trial court being for arguments on charge and further proceedings. It is also a matter of record that the State has cited 44 prosecution witnesses.
43. Thus, the petitioner has already undergone a substantial period of incarceration of more than 2 years and 1 month as of date, as an undertrial; and there is no immediate likelihood of the trial concluding in the near future.
44. The petitioner has relied upon *Mohd. Hakim*, *Arpan alias Babloo* and *Sahil Sharma alias Maxx* to submit that prolonged incarceration and delay in trial are relevant considerations even in prosecutions under the NDPS Act, particularly where the trial is likely to take considerable time and the accused has remained in custody for a substantial period.



45. In its celebrated decision in *Mohd. Muslim alias Hussain vs. State (NCT of Delhi)*¹⁵ the Supreme Court has, in no uncertain terms, given primacy to the right to speedy trial and frowned upon prolonged undertrial incarceration, in the following words:

“22. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling.”

46. In view of the above, this court finds merit in the submission that pre-trial detention cannot be permitted to assume the character of punitive detention, especially where trial has not commenced and will inevitably take time, especially in view of the number of witnesses cited by the prosecution.
47. It is also not without significance, that co-accused Rahul Varshney and Tushar Aggarwal, who are alleged to form part of the same transactional chain between the petitioner and Zubair, have already been granted regular bail. The State seeks to distinguish the case of the petitioner on the ground that he is the main supplier and principal operator of the firms through which the contraband was allegedly moved. That may be a matter for trial; however, the fact that co-accused persons who are links in the alleged drug trafficking chain, have already been granted regular bail is a relevant consideration while assessing parity and proportionality of continued incarceration of the petitioner.
48. The previous involvements attributed to the petitioner also do not, at this stage, persuade this court to reject his bail plea outright. The petitioner

¹⁵ 2023 SCC OnLine SC 352



has specifically asserted that he has no previous conviction, and that he is on bail in the prior NDPS case in which he is implicated.

49. It is the settled position, that though criminal antecedents are relevant, but prior involvement alone without any conviction, and absent a demonstrated misuse of liberty, cannot override all other factors.
50. Especially in view of the legal challenge raised by the petitioner under section 42 of the NDPS Act; and the admitted fact that the pharmaceutical drugs recovered were part of licensed stock; and the evident delay in trial, this court is of the view, that at this stage, the petitioner has been able to make-out a case for grant of regular bail, the rigours of section 37 of the NDPS Act notwithstanding.
51. Accordingly, the petitioner – ***Yusuf Aajam s/o Sayyad Ayyub Azam*** – is admitted to *regular bail* in FIR No.258/2023 dated 06.10.2023 registered at P.S.: Special Cell, Delhi, *subject to* the following conditions:
 - 51.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
 - 51.2. The petitioner shall furnish to the Investigating Officer/S.H.O., Special Cell, Delhi, a cellphone number on which he may be contacted at any time, and shall ensure that the number is kept active and switched-on at all times;
 - 51.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;



- 51.4. The petitioner shall not contact, visit, or offer any inducement, threat or promise to any of the prosecution witnesses or any other person acquainted with the facts of the case;
- 51.5. The petitioner shall 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; and
- 51.6. In case of any change in his residential address or contact details, the petitioner shall promptly inform the Investigating Officer in writing.
52. Since the petitioner is facing trial and would, therefore, be appearing before the learned trial court from time-to-time, it is not considered necessary to impose any additional reporting requirement as a condition of regular bail, beyond what has been set-out above.
53. It is clarified that nothing contained in this judgment shall be construed as an expression of opinion by this court on the merits of the prosecution case at trial, which shall proceed uninfluenced by any observation herein.
54. The present petition is disposed-of in the above terms.
55. Pending applications, if any, also stand disposed-of.
56. A copy of this judgment be forwarded to the concerned Jail Superintendent *forthwith* for information and necessary compliance.

ANUP JAIRAM BHAMBHANI, J

MAY 30, 2026/HJ