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* IN THE HIGH COURT OF DELHI AT NEW DELHI

CNR No. DLHC010236012026

+ BAIL APPLN. 2008/2026 & CRL.M.A. 16576/2026

SUNNY

.....Petitioner

Through: Mr. Shan Ul Islam, Mr. S. Islam, Mr.
Dinesh Chandar, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State
with SI Arvind Kumar, P.S.: AEKC
Crime Branch.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

07.10.2026

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CRL.M.A. 16576/2026 (exemption)

1. Allowed, subject to all just exceptions.

BAIL APPLN. 2008/2026

2. The present application has been filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking regular bail in connection with FIR No. 172/2025, registered at Police Station Crime Branch (South-East), under Sections 8 and 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

3. It is stated that the applicant is in custody since his arrest on 6th July, 2025.

4. Notice in the present application was issued *vide* order dated 22nd



May, 2026.

5. The case of the prosecution is as under:

- i. On 6th July, 2026, the applicant was apprehended during the course of regular patrolling and 259.3 grams of morphine was found in his possession and seized and the applicant was arrested.
- ii. During the course of investigation, the applicant made a disclosure about one Lalit. 114 grams of morphine was recovered from the possession of Lalit and he was also arrested.
- iii. Samples of the contraband seized were sent to FSL. The FSL report received found the said samples positive for 'Diazepam', 'Alprazolam', 'Morphine', 'Diacetylmorphine', 'Olanzapine', 'Accetylcodein', '6-Monoacetylmorphine', 'Irimethoprim', '5-(3-Acetylphenyl) isobenzofuran-1(3H)-one'.

6. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. He states that the prosecution failed to comply with the mandatory conditions under Section 50 of the NDPS Act, inasmuch as no independent public witness joined at the time of alleged search and seizure despite availability of public persons at the spot.

7. He further submits that the applicant deserves to be enlarged on bail as the recovery made is only marginally above the prescribed limit for commercial quantity. Reliance in this regard is placed upon decisions of the coordinate benches of this Court in **Taslima Alias Putti v. State NCT of Delhi** [Order dated 17th February, 2026 in Bail Appln. 3173 of 2025] and **Wali MD @ Shamshad v. State (NCT of Delhi) & Anr.** [Order dated 29th September, 2026 in Bail Appln. 3332/2025], wherein bail has been granted in similar circumstances, *i.e.* where the recovery made is marginally above



the prescribed limit for commercial quantity.

8. Counsel for the applicant submits that the chargesheet in the present matter has been filed and the charges have also been framed. However, no witnesses have been examined till date. Hence, the applicant may be granted bail in view of the period of incarceration already suffered by the applicant and the bleak likelihood of the trial being completed within a short period of time.

9. Counsel for the applicant submits that Lalit, the co-accused in the same FIR has already been granted bail by the Sessions Court on 16th May, 2026.

10. Status report has been filed on behalf of the State. In terms of the status report, the investigation has been completed, the chargesheet has already been filed and the charges have also been framed.

11. Mr. Mukesh Kumar, APP for the State opposes the instant bail application. He submits that a commercial quantity of Morphine was recovered from the applicant, therefore the rigours of Section 37 of the NDPS Act would come into place.

12. He further submits that the applicant cannot claim parity with the co-accused as recovery of intermediate quantity was made from the co-accused.

13. It is further stated that the applicant has another criminal involvement in the FIR No. 927/2015 under Sections 323/341/452/308/506/34 IPC, registered at PS Jyoti Nagar, Delhi.

14. Counsel for the applicant submits that the said FIR was in the context of an entirely different offence, and that the applicant has been granted bail in the same case.

15. I have heard the counsel for the parties and perused the record.



16. The Hon'ble Apex Court in ***Badsha SK. v. The State of West Bengal*** (order dated 13.09.2023 passed in Special Leave Petition (Crl.) 9715/2023), granted bail to the petitioner who had been in custody for more than two years with the trial yet to begin.

17. Similarly, in ***Man Mandal & Anr. v. The State of West Bengal*** (order dated 14.09.2023 passed in Special Leave Petition (Crl.) 8656/2023 decided on 14.09.2023), the petitioner therein had been in custody for almost two years and the Hon'ble Apex Court found that the trial is not likely to be completed in the immediate near future. The petitioner was, therefore, released on bail.

18. In ***Dheeraj Kumar Shukla v. State of U.P. : 2023 SCC OnLine SC 918***, the Hon'ble Apex Court released the petitioner therein on bail, and observed as under:

“3. It appears that some of the occupants of the Honda City” Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.”

19. From the foregoing, it emerges that the Supreme Court has repeatedly held that despite the stringent requirements imposed on the accused under Section 37 of the NDPS Act for the grant of bail, it has been established that these requirements do not preclude the grant of bail on the grounds of undue delay in the completion of the trial. Various courts have recognized that prolonged incarceration undermines the right to life, liberty, guaranteed



under Article 21 of the Constitution of India, and therefore, conditional liberty must take precedents over the statutory restrictions under Section 37 of the NDPS Act.

20. Admittedly, the recovery made from the applicant was 259 gms, which is marginally above the commercial quantity, prescribed under the NDPS Act of 250 gms. In such circumstances, the strict application of the rigours of the NDPS Act may not be justified and warrants a more nuanced consideration.

21. In terms of the status report, the investigation is complete and chargesheet has been filed. Further, the charges have also been framed. The matter is now at the stage of commencement of prosecution evidence. It is an admitted position that the recording of evidence is yet to begin and the same will take considerable time

22. As per the nominal roll, the applicant has been in custody for one (1) year and three (3) months and his conduct in jail has been satisfactory.

23. It is an admitted position that the applicant is not involved in any other cases under the NDPS Act. Hence, the possibility of the applicant committing a similar offence while enlarged on bail is remote.

24. In such circumstances, this Court is of the opinion that the applicant has made out a *prima facie* case for grant of bail on the grounds of absence of independent witnesses and prolonged delay in the trial.

25. Considering the aforesaid, the present application is allowed and the applicant is directed to be released on bail, subject to the applicant furnishing personal bond in the sum of Rs.50,000/-, with one surety in the like amount to the satisfaction of the Trial Court, and subject to the following conditions:



- a. The applicant shall provide his latest mobile number(s) to the concerned Investigating Officer (“I.O.”)/Station House Officer (S.H.O.), which shall be kept in a working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the I.O.
 - b. The applicant shall furnish his permanent address to the I.O., as well as the address where he is residing during the pendency of the matter, within one (1) week from today, and will inform the I.O. and this Court in case of any change in address.
 - c. The applicant will appear before the Trial Court as and when the matter is listed for hearing.
 - d. The applicant shall not leave the country without the permission of the Court.
 - e. The applicant shall not commit any offence during the period of their release.
 - f. 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.
26. The application is disposed of in the above terms.

AMIT BANSAL, J

OCTOBER 7, 2026
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