



2026:DHC:6909



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IN THE HIGH COURT OF DELHI AT NEW DELHI**BEFORE****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

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CNR No. DLHC010049252026

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BAIL APPLN. 610/2026Date of Decision: **19.08.2026****IN THE MATTER OF:**

AMRIK SINGH BEDI,
AGED 52 YEARS,
S/O LATE SURJEET SINGH BEDI,
R/O E-130, NARAYANA,
NEW DELHI – 110028
PRESENTLY LODGED IN JAIL NO. 4,
CENTRAL JAIL COMPLEX, TIHAR

.....Petitioner

(Through: Mr. Amit Chadha, Sr. Advocate with Mr. Aditya, Mr. Saiyam Malik, Ms. Shivani Sharma, Mr. Harjas Singh, Mr. Dhruv Tomar and Mr. Kamaksh Sharma, Advocates.)

versus

NARCOTICS CONTROL BUREAU,
DELHI ZONAL UNIT, R.K. PURAM,
NEW DELHI, PIN CODE – 110066

.....Respondent

(Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Mr. Pranayjeet Singh, Advs. and Mr. Shantanu Jugtawat, SPP.)

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J.**



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1. This is the second application seeking regular bail on behalf of the applicant in connection with Case No. VIII/36/DZU/2024, registered for the offences punishable under Sections 8, 21, 23, 25, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'). The first Bail application¹ of the present applicant was dismissed as withdrawn *vide* order dated 05.01.2026 with liberty to file afresh before the trial Court.

FACTS OF THE CASE

2. The prosecution case, as emerging from the complaint and the material placed on record, is that on 11.11.2024, the Narcotics Control Bureau (NCB) received secret information regarding a parcel lying at the Smart Logistics Courier Office, Nangal Raya, New Delhi, suspected to contain narcotic substance and destined for Australia. Upon examination of the said parcel, 1.015 kilograms of cocaine was allegedly recovered. Thereafter, on 13.11.2024, on receipt of information regarding a person coming to collect the said consignment from the warehouse of Trans Safe Global Express, the NCB team apprehended one Shivraj, stated to be the driver of co-accused Lokesh Chopra. The investigation, thereafter, led the NCB to co-accused Avadhesh Yadav @ Gopi, from whose residence, upon a search conducted on 14.11.2024, 81.515 kilograms of cocaine was allegedly recovered.

3. As regards the role attributed to the present applicant, the prosecution, *inter alia*, relies upon the statement of co-accused Rishi Sachdeva recorded during investigation. According to the said statement, Rishi Sachdeva, along

¹ Bail Appln. 4381/2025



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with the applicant, one Amit Mathur and one Navjot Kaur, had travelled to Dubai and met co-accused Pawan Thakur @ Pinchu. During the said meeting, co-accused Pawan Thakur allegedly informed them about a consignment stated to be lying at a factory in Mehsana, Gujarat, and that an Apple AirTag had been affixed to the said consignment. The applicant thereafter allegedly travelled to Mehsana, Gujarat on 22.03.2024 and, according to the prosecution, located the factory where the consignment was suspected to be lying.

4. The prosecution further alleges that, during his visit to Mehsana, the applicant entered the factory premises and interacted with the factory manager, Mahesh Sharma. It is alleged that the applicant introduced himself as “Bobby Walia” and sought information regarding the consignment. The prosecution relies upon the statement of Mahesh Sharma in relation to the said interaction. The prosecution also relies upon the statement of one Gurbani Talwar, who was working with the applicant and had accompanied him to Gujarat, wherein she is stated to have disclosed that the applicant was following a location on his mobile phone, stopped the vehicle in the factory area and thereafter went towards the indicated location. She further stated that, although she had accompanied the applicant for a purported video shoot, no such shooting was ultimately undertaken.

5. It is further the prosecution case that the consignment was subsequently collected on 24.03.2024 by co-accused Avadhesh Yadav @ Gopi, pursuant to instructions received from Pawan Thakur @ Pinchu. The prosecution also relies upon the statements recorded during investigation concerning the subsequent movement of the consignment. The prosecution also refers to the statement of the applicant recorded under Section 67 of the



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NDPS Act, wherein he is stated to have disclosed that he had received ₹12,00,000 in cash in connection with the work allegedly undertaken by him. The prosecution, thus, seeks to place the applicant's alleged visit to Mehsana and the circumstances surrounding the same in the larger chain of events concerning the consignment subsequently recovered by the NCB.

6. The applicant was arrested on 09.12.2024 and has remained in custody thereafter, except for the period of 45 days during which he was enlarged on interim bail. His earlier application for regular bail came to be rejected by the Special Judge, and the subsequent application before the Special Court was also dismissed on 27.01.2026. The first bail application before this Court was dismissed as withdrawn. The applicant has now approached this Court by way of the present second application for regular bail.

SUBMISSIONS ON BEHALF OF PARTIES

7. Mr. Amit Chadda, learned senior counsel for the applicant submits that the case against the applicant essentially rests upon the allegation that, on 22.03.2024, he accompanied co-accused Rishi Sachdeva to Mehsana, Gujarat, for locating a consignment with the aid of an Apple AirTag. It is contended that the alleged AirTag itself was never recovered and there is no independent material connecting the same with the applicant. It is further submitted that, even if the prosecution case is accepted as it stands, the applicant is not alleged to have taken possession of, transported, stored or delivered the contraband. At the highest, the allegation is that he went to Gujarat to locate the consignment and made an attempt to have it released, which was never carried through. According to him, therefore, the



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allegations against the applicant do not disclose his actual involvement in the handling of the contraband.

8. Learned senior counsel next draws attention to the statement of Mahesh Sharma, Manager of G.R. Metal Alloys, relied upon by the prosecution. It is submitted that the WhatsApp conversation placed on record shows that, after the alleged visit, it was Mahesh Sharma who attempted to contact the applicant, but the applicant did not respond to those messages. It is also contended that Mahesh Sharma did not identify the applicant before the investigating agency as the person who had visited the factory. The allegation regarding the applicant having worn a turban is stated to find no corroboration in the statement of the said witness. On this basis, learned counsel submits that the circumstances relied upon by the prosecution in relation to the alleged visit to the factory do not furnish a reliable link between the applicant and the contraband.

9. Mr. Amit Chadda also questions the electronic evidence relied upon by the prosecution. It is submitted that the mobile phone allegedly used by the applicant for communicating with the factory manager has itself not been recovered. More importantly, according to learned senior counsel, the SIM said to have been used for the said communication was activated only on 16.10.2024, whereas the alleged visit to Gujarat is of March, 2024. It is, therefore, argued that the said SIM could not have been used by the applicant at the relevant time and that the prosecution's reliance upon the location and communication attributed to the said number is consequently doubtful. Learned senior counsel also submits that the statement of Gurbani Talwar ought not to be relied upon, particularly when she has not been cited as a witness in the trial, and that the circumstances stated by her regarding



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the applicant's visit to Gujarat cannot, therefore, furnish substantive incriminating material against him.

10. It is further argued that there is no material establishing a direct nexus between the applicant and the contraband recovered in November, 2024. He points out that the applicant is alleged to have visited Gujarat on 22.03.2024, whereas the recoveries were effected almost eight months thereafter, and there is nothing on record, according to him, to establish that the consignment allegedly located in Gujarat in March, 2024 was the same consignment which was subsequently recovered. It is also submitted that no contraband was recovered either from the applicant or at his instance and that there is no allegation that he booked, transported, stored or distributed the same.

11. Lastly, learned senior counsel seeks parity with co-accused Rishi Sachdeva and Lokesh Chopra, who have already been granted regular bail by Trial Court. It is submitted that the applicant was implicated on the basis of the statement of Rishi Sachdeva, who himself has been enlarged on bail, and that the role attributed to the applicant is considerably lesser than that attributed to the said co-accused. It is further submitted that Lokesh Chopra, despite the allegations of having coordinated the logistics and transportation of the consignment, has also been granted bail, whereas the role attributed to the present applicant is confined principally to his alleged visit to Gujarat. He submits that the applicant has no criminal antecedents, has remained in custody since 09.12.2024, the investigation stands completed and the complaint has already been filed. It is accordingly urged that the applicant satisfies the requirements of Section 37 of the NDPS Act and deserves to be released on regular bail.



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12. *Per contra*, Mr. Arun Khatri, learned Special Public Prosecutor appearing for the NCB opposes the application. It is submitted that the material collected during investigation has to be considered in its entirety and not by examining individual circumstances in isolation. He submits that the present case involves recovery of commercial quantity of cocaine and, consequently, the restrictions contained in Section 37 of the NDPS Act are attracted. It is further submitted that, at the stage of considering bail, the Court is not required to undertake a detailed or meticulous appreciation of the evidence, particularly where the prosecution relies upon a chain of circumstances to attribute a role to the applicant. According to the NCB, the applicant has failed to demonstrate, on the basis of the material on record, reasonable grounds for believing that he is not guilty of the offences alleged against him.

13. As regards the role attributed to the applicant, learned SPP submits that the prosecution case does not rest merely upon his having travelled to Mehsana, Gujarat. It is contended that the applicant had travelled to Dubai and met co-accused Pawan Thakur @ Pinchu and thereafter proceeded to Mehsana, Gujarat, where he allegedly tracked the consignment and approached the factory in which the consignment was lying. According to the prosecution, the applicant introduced himself to the factory manager as “Bobby Walia” and sought release of the consignment. The statement of Mahesh Sharma, the factory manager, is relied upon in support of these circumstances. It is submitted that the subsequent conduct attributed to the applicant, including his leaving the factory when asked to wait for the owner and his failure to respond when the manager subsequently attempted to contact him, also forms part of the circumstances relied upon by the



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prosecution.

14. In response to the submissions concerning the electronic material, learned SPP submits that the prosecution has placed reliance upon the communications between the applicant and various co-accused persons, including Pawan Thakur @ Pinchu, Puneet Sachdeva and Avadhesh Yadav @ Gopi. It is submitted that these communications, including those exchanged in groups, have to be considered along with the other circumstances appearing in the investigation. The prosecution has also relied upon the applicant's prior acquaintance with Pawan Thakur @ Pinchu and upon photographs and communications which, according to the NCB, form part of the material collected during investigation. The prosecution has also placed reliance upon the material concerning the alleged financial dealings of the persons connected with the transaction, which, subject to its evidentiary assessment at trial, forms part of the surrounding circumstances relied upon by the prosecution.

15. Mr. Khatri further submits that the applicant's contention that there was no actual recovery from him does not, by itself, conclude the question of his involvement, particularly when the prosecution case attributes to him a role in relation to the movement and attempted retrieval of the consignment. It is submitted that the prosecution case is not founded solely upon the statements of co-accused persons, but is also supported by the statements of the factory manager and Gurbani Talwar, who was working as an assistant with the applicant and had accompanied him to Gujarat, concerning the applicant's visit and the circumstances surrounding the same. The NCB submits that these circumstances, taken together, provide material which requires consideration in the context of the alleged conspiracy and



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cannot be discarded at the threshold merely because the contraband was ultimately recovered from other locations.

16. As regards the plea of parity, learned SPP submits that the applicant seeks parity with co-accused Rishi Sachdeva and Lokesh Chopra on the ground that both have already been enlarged on bail. Learned SPP, however, submits that the material available against the applicant has to be considered on its own footing and that, unlike the case of the aforesaid co-accused, the prosecution relies upon the statements of public witnesses as well as the circumstances surrounding the applicant's alleged visit to the factory. Even otherwise, Mr. Khatri submits that the orders granting bail to co-accused Rishi Sachdeva and Lokesh Chopra are under challenge before this Court *vide* CrI. M.C. No. 1142/2026 and CrI. M.C. No. 4878/2026, and that this Court was pleased to issue notice therein on 15.07.2026 and 20.07.2026. It is, therefore, submitted that the said orders, particularly when under challenge before this Court, cannot, by themselves, furnish a ground for extending the benefit of parity to the applicant.

17. The NCB accordingly submits that the applicant has failed to satisfy the conditions prescribed under Section 37 of the NDPS Act and the present application deserves to be dismissed.

18. I have heard learned counsel appearing for the parties and perused the record.

ANALYSIS

19. Before advertng to the twin conditions under Section 37 of the NDPS Act, it would be apposite to deal with the submission of learned Senior Counsel that the applicant was neither involved in the transportation nor



storage of the contraband and that no recovery was effected from him or at his instance. The submission, however, cannot be accepted as a ground to exclude the applicability of Section 37 of the NDPS Act. In ***State of Punjab v. Balraj Singh @ Billa***,² the Supreme Court reiterated that, in a case involving commercial quantity, the statutory conditions under Section 37 of the NDPS Act, cannot be diluted on account of absence of recovery from the accused.

20. The same principle assumes relevance on the facts of the present case. In ***Harpreet Singh Talwar alias Kabir Talwar v. State of Gujarat through National Investigating Agency***,³ the Supreme Court, despite there being no direct recovery from the appellant, considered the alleged coordinating and facilitating role attributed to him in the broader matrix of the prosecution case and observed that absence of direct seizure is not dispositive where the case proceeds on conspiracy and facilitation. The relevant paragraphs are extracted as under:-

“26. We say so for the reason that despite no direct recovery of contraband effected from the Appellant, the Prosecution's case is that he played a coordinating and enabling role in facilitating the import of narcotics concealed as talc through M/s Magent India—which he allegedly controlled through a proxy. The consignment, although not seized with heroin, shares structural and logistical similarities with those where heroin was ultimately found.

28. This Court is cognizant of the fact that no heroin or narcotic substances were directly recovered from the consignment linked to the Appellant. However, the investigative narrative does not rest solely on physical recovery but proceeds on the basis of conspiracy and facilitation. In such cases, the absence of direct seizure is not dispositive, particularly where there exists a pattern of covert coordination, fictitious entities, and barter-based compensation— features which, according to

² 2026 SCC OnLine SC 1058

³ 2025 SCC OnLine SC 1103



the prosecution, mark the smuggling architecture employed in the present matter.”

[emphasis supplied]

21. The said aspect also came to be considered by the Supreme Court in ***Md. Nawaz Khan v. Union of India***,⁴ while considering the applicability of the rigour of Section 37 of the NDPS Act, examined the surrounding circumstances notwithstanding the absence of recovery from the accused and emphasised that the statutory test requires an assessment of the material available on record as a whole. Thus, the absence of personal recovery cannot, by itself, lead to the conclusion that there are reasonable grounds for believing that the accused is not guilty of the offence.

22. The fact that the applicant is not alleged to have physically possessed or transported the contraband does not, by itself, answer the allegation under Section 29 of the NDPS Act, which concerns abetment and criminal conspiracy in relation to offences under the NDPS Act. The question at this stage is whether the material relied upon by the prosecution furnishes reasonable grounds for believing that the applicant had no connection with the alleged conspiracy.

23. The accusation relates to recovery of commercial quantity of contraband. Once the rigours of Section 37 of the NDPS Act are attracted, the Court can grant bail only upon satisfaction of the twin conditions stipulated under Section 37(1)(b) of the NDPS Act, namely, (i) that there are reasonable grounds for believing that he is not guilty of the alleged offence; and (ii) that he is not likely to commit any offence while on bail, in addition to the usual considerations governing grant of bail.

⁴ (2021) 10 SCC 100



24. The legal position with regard to the rigours of Section 37 of the NDPS Act is well settled. In ***State of M.P. v. Kajad***,⁵ the Supreme Court, while considering the parameters governing grant of bail in cases involving commercial quantity, has held as under:

“5. ...A perusal of Section 37 of the Act leaves no doubt in the mind of the Court that a person accused of an offence, punishable for a term of imprisonment of five years or more, shall generally be not released on bail. Negation of bail is the rule and its grant an exception under sub-clause(ii) of clause(b) of Section 37(1). For granting the bail the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences with which he is charged and further that he is not likely to commit any offence while on bail. It has further to be noticed that the conditions for granting the bail, specified in clause(b) of subsection (1) of Section 37 are in addition to the limitations provided under the Code of Criminal Procedure or any other law for the time being in force regulating the grant of bail. Liberal approach in the matter of bail under the Act is uncalled for.”

25. As regards the expression “reasonable grounds” occurring in Section 37(1)(b)(ii) of the NDPS Act, it would be apposite to refer to the observations of the Supreme Court in ***Union of India through Narcotics Control Bureau, Lucknow v. Md. Nawaz Khan***,⁶ wherein the scope and meaning of the said expression have been explained as under:

“14. To sum up, the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail...”

[emphasis supplied]

⁵ (2001) 7 SCC 673

⁶ (2021) 10 SCC 100



26. The expression “reasonable ground” came to be considered by the Supreme Court in *State of Kerala v. Rajesh*,⁷ wherein, reiterating the aforesaid principle, the Court held that the expression contemplates something more than mere *prima facie* grounds and requires substantial probable causes for believing that the accused is not guilty of the alleged offence. The Court further emphasised that, having regard to the underlying object of Section 37 of the NDPS Act, a liberal approach in the matter of grant of bail is uncalled for.

27. The material relied upon by the prosecution is required to be considered in its entirety and the individual circumstances cannot be viewed in isolation. In *Harpreet Singh Talwar alias Kabir Talwar* (supra), the Supreme Court, while examining the alleged complicity of the accused, considered the broader matrix of facts and the cumulative effect of the meetings, communications, coordination and other circumstantial linkages. The relevant paragraph is extracted as under:-

“27. The charge against the Appellant must also be evaluated in light of the broader matrix of facts, including (i) his alleged meetings in Dubai with a principal foreign accused; (ii) the transfer of documents through intermediaries for the clearance of a flagged consignment; (iii) efforts to retrospectively fabricate invoices and assign responsibility to others; (iv) the use of multiple firms allegedly connected to him to obfuscate the true nature of the transactions; and (v) his telephonic calls to certain co-conspirators. These aspects, supported by the statements of protected witnesses and circumstantial linkages, currently meet the threshold of prima facie satisfaction regarding the Appellant's complicity.”

28. The same approach is warranted in the present case, where the applicant's travel, his alleged presence at Mehsana, Gujarat, the electronic material, the factory visit and the statements relied upon by the prosecution

⁷ (2020) 12 SCC 122



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are required to be considered cumulatively.

29. Adverting to the first requirement under Section 37(1)(b) of the NDPS Act, the expression “reasonable grounds” contemplates something more than mere *prima facie* grounds and requires the Court to have credible and plausible material on the basis of which it can form an opinion that the accused is not guilty of the alleged offence. The prosecution seeks to connect the applicant with the consignment of cocaine subsequently recovered by relying upon a series of circumstances which are required to be considered cumulatively. The prosecution relies upon the statement of co-accused Rishi Sachdeva, according to which the applicant had travelled with him to Dubai and met co-accused Pawan Thakur @ Pinchu and, thereafter, applicant travelled to Mehsana, Gujarat, on 22.03.2024 for locating the consignment allegedly through an Apple AirTag.

30. It is further the prosecution case that the applicant, along with Rishi Sachdeva, visited the factory in Kadi Industrial Area where the consignment was suspected to be lying and obtained the contact details of the factory manager. The prosecution further relies upon the statement of Mahesh Sharma, the factory manager, as well as the statement of Gurbani Talwar, who had accompanied the applicant to Gujarat. The absence of recovery of the AirTag, therefore, does not by itself dislodge the other material relied upon by the prosecution concerning the applicant's presence at the factory and his interaction with the factory manager.

31. The aforesaid material, however, is not confined to the statement of the co-accused. The prosecution has also placed reliance upon the mobile number 8168450310, stated to have been used by the applicant during the relevant period. The tower location particulars relied upon by the



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prosecution are stated to correspond with the applicant's travel itinerary and to place the said number in the vicinity of the places forming part of the prosecution's version of the Gujarat visit. The CDR material further reflects repeated communication from the said number with the number attributed to factory manager Mahesh Sharma. When considered alongside the statements of co-accused Rishi Sachdeva and Mahesh Sharma, the electronic material *prima facie* lends corroboration to the prosecution case regarding the applicant's presence at Mehsana and his interaction with the factory manager.

32. Mr. Amit Chadda has contended that the mobile number 8168450310 could not have been used by the applicant during the relevant period, as the SIM corresponding to the said number is reflected as having been activated on 16.10.2024, whereas the alleged visit to Gujarat was in March, 2024. The contention, however, does not appear to be borne out from the CDR material placed on record. As rightly pointed out by learned SPP, the CDR record reflects usage of the said number during March, 2024, i.e. during the period relevant to the prosecution case. The activation date 16.10.2024, as explained by the NCB, relates to re-issuance of the SIM after the number had remained inactive for a continuous period and, therefore, cannot by itself, be treated as the date on which the number was first used. This is also borne out from the CDR material, which records usage of the said number during March, 2024 and was specifically requisitioned for the period from 01.03.2024 to 31.03.2024. Thus, the submission that the said number came into existence only on 16.10.2024 does not, at this stage, dislodge the electronic material relied upon by the prosecution.

33. The circumstances surrounding the applicant's travel to Gujarat also



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merit consideration. The material placed on record indicates that the applicant travelled to Ahmedabad along with Gurbani Talwar by an Indigo flight on 22.03.2024 and that a return journey had been booked for the following day. The prosecution, however, relies upon the circumstance that the applicant did not undertake the scheduled return journey and instead returned to Delhi by an earlier flight along with Rishi Sachdeva and Amit Mathur. No satisfactory explanation, at this stage, has been brought on record as to why the applicant, if his visit was solely in connection with his stated professional commitments, did not avail of the return journey which had already been booked and instead returned along with the aforesaid co-accused. This circumstance assumes significance when considered with the statement of Gurbani Talwar, who had accompanied the applicant and has stated about his movements during the visit, including his following of a location on the mobile phone and proceeding towards the indicated location. The said statement, therefore, provides an additional circumstance concerning the applicant's presence and conduct in Gujarat.

34. Learned Senior Counsel has contended that Gurbani Talwar has not been cited as a witness and, therefore, her statement cannot be relied upon. The submission is a matter which may be urged at trial; however, the omission to cite a witness at this stage is not necessarily incapable of correction, as the trial Court possesses wide powers to summon a material witness where such evidence is essential for a just decision, as recognised in *Mina Lalita Barua v. State of Orissa*,⁸ and *Varsha Garg v. State of M.P.*⁹ In any event, the present assessment does not rest upon her statement alone.

⁸ (2013) 16 SCC 173

⁹ (2023) 19 SCC 646



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The circumstance emerging from the investigation regarding her accompanying the applicant is being considered only as an additional circumstance, alongside the CDR, flight records and the statement of Mahesh Sharma, the factory manager.

35. At this stage, it is also necessary to deal with the objection by the learned Senior Counsel founded upon *Tofan Singh v. State of Tamil Nadu*.¹⁰ The law declared therein is binding and, as noticed by the Supreme Court in *Md. Nawaz Khan* (supra), the statement recorded under Section 67 cannot be relied upon as a confessional statement against the accused even at the stage of bail. The said principle, however, does not require the Court to disregard independent material otherwise available on record against the accused. The assessment under Section 37 of the NDPS Act must, therefore, be undertaken on the basis of the material which is legally capable of being considered, without placing reliance upon the statement under Section 67, NDPS Act, as a confessional statement.

36. The Supreme Court, in *Narcotics Control Bureau v. Mohit Aggarwal*,¹¹ while giving effect to the principle laid down in *Tofan Singh* (supra), nevertheless proceeded to examine the circumstantial material independently available against the accused and declined to grant bail under Section 37. The Court also rejected the contention that absence of recovery from the accused was, by itself, sufficient to conclude that he was not guilty. The decision thus makes it clear that, once the Section 67 statement is kept aside, the remaining material must still be examined to determine whether the rigours of Section 37 stand satisfied.

¹⁰ (2021) 4 SCC 1

¹¹ (2022) 18 SCC 374



37. The position is further illustrated by *Union of India (NCB) v. Khalil Uddin*,¹² wherein the Supreme Court, while conscious of the law laid down in *Tofan Singh* (supra) and its applicability even at the stage of bail, proceeded to examine the independent material available against the accused and held that the matter stood on a different footing on account thereof. The decision thus reinforces that, while a statement under Section 67 cannot itself be relied upon as a confessional statement, independent material otherwise available on record remains relevant for examining the requirements of Section 37.

38. In the present case also, this Court does not place reliance upon the applicant's statement under Section 67 of the NDPS Act, for recording its satisfaction under Section 37 of the NDPS Act. The assessment proceeds on the other material placed on record, including the statements of the persons relied upon by the prosecution, the CDR and tower-location material, the flight records, the applicant's alleged presence at Mehsana and his visit to the factory, which circumstances are required to be considered cumulatively. It is this cumulative body of material, and not the statement recorded under Section 67, NDPS Act, which falls for consideration while determining whether reasonable grounds exist for believing that the applicant is not guilty of the offences alleged against him.

39. The prosecution case regarding the factory visit is further sought to be supported by the statement of Mahesh Sharma. According to the prosecution, the applicant approached the factory and introduced himself as "*Bobby Walia*" and sought information concerning the consignment. The prosecution further relies upon the fact that the mobile number from which

¹² 2022 SCC OnLine SC 2109



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the said person had communicated with Mahesh Sharma was saved by the latter under the name “Boby Balia Director of Midiya”.

40. The description allegedly given by the said person regarding the contents of the parcel, namely, that it contained a resin-type chemical powder used in printing, is also relied upon by the prosecution. The applicant has disputed the said circumstance and has questioned the identification as well as the statement of the factory manager. These are matters which would ultimately fall for consideration at the stage of trial. At this stage, however, the statement of Mahesh Sharma, when read with the statement of Rishi Sachdeva, Gurbani Talwar and the electronic material relied upon by the prosecution cannot be said to be wholly without corroboration.

41. The subsequent conduct attributed to the applicant also requires consideration in the backdrop of the aforesaid circumstances. Learned senior counsel has placed reliance upon the WhatsApp messages exchanged between Mahesh Sharma and the applicant and submitted that it was Mahesh Sharma who attempted to contact the applicant and that the applicant did not respond to the said messages. However, the chronology emerging from the statements relied upon by the prosecution indicates that the applicant had already left Ahmedabad by the time of the subsequent attempts to contact him, which is further corroborated by the flight tickets. Consequently, the mere absence of a response to the said messages cannot, by itself, displace the earlier material concerning the applicant’s alleged visit to the factory and his interaction with Mahesh Sharma.

42. Mr. Chadda has also emphasised that no contraband was recovered from the applicant or at his instance and that, even if the prosecution case is



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accepted at its highest, the applicant did not ultimately take possession of or transport the recovered contraband. The said submission, however, overlooks that the applicant is also alleged to have participated in the larger transaction attracting Section 29 of the NDPS Act. At the stage of bail, the Court is not required to determine whether the prosecution will ultimately be able to establish the entire chain beyond reasonable doubt.

43. The submission that the applicant's visit to Gujarat in March, 2024 has no nexus with the recovery effected in November, 2024 also does not, at this stage, appear persuasive. The material on record indicates that the applicant went to Mehsana on 22.03.2024 and located the factory where the consignment was stated to be lying. On 24.03.2024, co-accused Avdhesh Yadav @ Gopi, pursuant to the instructions attributed to Pawan Thakur @ Pinchu, travelled to Mehsana, contacted Bhairuram, collected the drugs and took them to Ahmedabad. The drugs were thereafter brought to Delhi and kept at the residence of co-accused Rishi Sachdeva for about fifteen days, before being removed through Avdhesh Yadav.

44. The subsequent recovery assumes significance in this context. Co-accused Avdhesh Yadav was apprehended in November, 2024 and, pursuant to the information furnished by him, 81.515 kilograms of cocaine was recovered from his residence. Thus, the prosecution case places the applicant, co-accused Avdhesh Yadav and Rishi Sachdeva at successive stages in the movement and handling of the consignment, from its location at Mehsana to its subsequent movement and eventual recovery. While this Court is not required, at this stage, to conclusively determine that the substance recovered in November, 2024 was the very same consignment located in March, 2024, the continuity of the persons involved and the



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successive movement and alleged storage of the consignment *prima facie* provide a connecting link between the two events. The March transaction, therefore, cannot, at this stage, be regarded as an isolated or wholly unconnected occurrence.

45. The limited question is whether, on the material presently available, there are reasonable grounds for believing that the applicant is not guilty of the alleged offences. Having considered the material in its entirety, particularly the statement of Rishi Sachdeva, the statement of Mahesh Sharma, the electronic material, the flight records and the surrounding circumstances, with the statement of Gurbani Talwar being considered only as an additional circumstance, this Court is unable, at this stage, to form such an opinion. The material, taken cumulatively, raises circumstances which *prima facie* connect the applicant with the alleged transaction and, therefore, the first requirement under Section 37(1)(b) of the NDPS Act is not satisfied.

46. As regards the plea of parity, learned Senior Counsel submits that co-accused Rishi Sachdeva and Lokesh Chopra have already been enlarged on bail. It is true that the orders granting bail to the said co-accused are presently under challenge before this Court in Crl. M.C. No. 1142/2026 and Crl. M.C. No. 4878/2026, in which notice has been issued on 15.07.2026 and 20.07.2026. The pendency of the said proceedings, however, does not preclude this Court from examining the plea of parity in the present application. The question here is confined to whether, on the material presently available against the applicant, he stands on a footing comparable to the said co-accused.

47. The answer, in the facts of the present case, is in the negative. The



principle of parity, as explained by the Supreme Court in *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana*,¹³ requires a comparative assessment of the role attributed to the accused and the material available against him and cannot be applied mechanically. Without expressing any opinion on the correctness of the orders granting bail to Rishi Sachdeva and Lokesh Chopra, which are the subject matter of the aforesaid proceedings, this Court finds that the material relied upon against the present applicant includes the statement of the factory manager, the circumstances surrounding his visit to the factory, the statement of Gurbani Talwar and the electronic and other corroborative material discussed hereinabove. The applicant, therefore, cannot claim parity merely on the basis that the aforesaid co-accused have been enlarged on bail.

48. As regards the second requirement under Section 37(1)(b) of the NDPS Act, the nature of the allegations and the circumstances in which the alleged offence is stated to have been committed also assume significance. The prosecution case concerns an alleged organised drug-trafficking operation having international linkages, and alleges that the applicant's role extended beyond a mere incidental association, including his travel to Dubai, his subsequent visit to Mehsana for locating the consignment and his interaction at the factory where the consignment was stated to be lying. The material relied upon by the prosecution, including the statements of the co-accused and witnesses, the electronic material and the circumstances surrounding the applicant's movements, is stated to indicate his association with the alleged network. The allegations, therefore, are not in respect of an isolated or individual act, but pertain to an alleged organised international

¹³ (2021) 6 SCC 230



drug trafficking network, involving commercial quantity of cocaine.

49. The nature of the alleged offence also assumes significance. The prosecution case concerns the alleged movement of commercial quantity of cocaine as part of an organised network having international linkages. Such alleged trafficking in narcotic drugs is not merely an offence affecting an individual but carries wider ramifications for public health and the larger interests of society. The Supreme Court in *State of Punjab v. Balraj Singh @ Billa* (supra), while considering the implications of organised drug trafficking, has observed that the supply of drugs has a vital bearing upon the national economy and the health of the people and that, where the interests of the nation and personal liberty come into conflict, the former shall prevail. The relevant observation is extracted as under:-

“.....In view of the said reference, we do not wish to deliberate on this issue further, save and except that in our view paramount consideration is nothing but interest of justice for all. Should there be any conflict between the sovereignty of country and personal liberty, undoubtedly, the former shall prevail, particularly, when a war is waged against the nation, be it in the form of supply of drugs, which vitally affects the national economy and health of the people.”

[emphasis supplied]

50. The societal and public-health consequences of organised narcotics trafficking are, therefore, relevant while appreciating the legislative policy underlying the stringent conditions prescribed under Section 37 of the NDPS Act. These considerations, however, have to operate within the statutory framework governing the grant of bail and cannot supplant the requirements of Section 37. In cases governed by such stringent statutory regime, the larger societal and national consequences of organised narcotics trafficking cannot be lost sight of while considering the prayer for bail.

51. The material presently available indicates that the applicant is alleged



to have knowingly undertaken a specific role in locating and facilitating access to a consignment of commercial quantity of cocaine, in coordination with persons allegedly involved in its subsequent retrieval and movement. The alleged conduct, therefore, is not shown to be an isolated or inadvertent association, but is alleged to form part of a coordinated transaction. In the absence of any material which would enable this Court to reasonably conclude that such involvement was an aberration and that the applicant is unlikely to repeat such conduct if enlarged on bail, the second requirement under Section 37(1)(b) is also not satisfied.

52. As regards the period of incarceration, the applicant was arrested on 09.12.2024 and, save for the period of 45 days during which he was enlarged on interim bail, has remained in custody thereafter. The completion of investigation and filing of the complaint, as also the period of custody undergone by the applicant, are relevant considerations. However, these circumstances cannot, by themselves, override the statutory mandate of Section 37.

53. In **Balraj Singh @ Billa** (supra), the Supreme Court also considered the plea of prolonged incarceration and observed that, in the facts of that case, custody of one year and seven months did not warrant grant of bail having regard to the statutory scheme and the maximum punishment prescribed. The relevant paragraphs are extracted as under:-

“19. Moreover, the respondent has only undergone 1 year 7 months, and if found guilty a maximum sentence of twenty years may be imposed upon him. Therefore, it cannot be said that he has suffered incarceration for a long period, warranting interference in view of Article 21 of the Constitution.

20. While this Court has recognized on several occasions that prolonged incarceration warrants the grant of bail in view of Article 21 of the Constitution, we have noticed that the application thereof is not uniform.



Moreover, there is no doubt that what constitutes “prolonged incarceration” for the purposes of bail, has not been expounded by this Court or the law of the land.

21. While judicial discretion is an important facet of justice dispensation, this Court cannot overlook the fact that similarly situated persons in custody may receive different outcomes, dependent on the approach adopted by the respective bench.....”

[emphasis supplied]

54. The said decision does not, however, prescribe any inflexible period beyond which incarceration must necessarily result in grant of bail. The period of custody is therefore taken into consideration, but cannot be viewed in isolation from the statutory requirements under Section 37 and the material available against the applicant.

55. The applicant has also placed reliance upon the fact that the investigation stands completed, the complaint has been filed and he has remained in custody for a considerable period. In ***Narcotics Control Bureau v. Mohit Aggarwal*** (supra), the Supreme Court held that the length of custody, filing of the chargesheet and commencement of trial, by themselves, cannot constitute persuasive grounds for grant of bail when the statutory conditions under Section 37 remain unsatisfied.

56. The period of custody undergone by the applicant and completion of investigation are undoubtedly relevant considerations, but cannot be viewed in isolation from the nature of the allegations, the material on record and the statutory scheme. Having regard to the punishment prescribed for the principal offences alleged, which may extend to 20 years, this Court is of the view that the period of incarceration undergone by the applicant, by itself, does not furnish sufficient ground for grant of bail when the requirements of Section 37 remain unsatisfied.

57. Bearing in mind the facts and circumstances of the case and the



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material placed on record, at this stage this Court is not inclined to enlarge the applicant on regular bail since the applicant has failed to satisfy either of the twin conditions under Section 37(1)(b) of the NDPS Act.

58. However, nothing stated herein shall be construed as an expression on the merits of the case, which shall be considered by the Trial Court on the basis of evidence led before it.

59. The application is therefore, dismissed.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 19, 2026

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