

Yash Gupta Through Pairokar vs Narcotics Control Bureau on 22 April, 2025

Author: Jasmeet Singh

Bench: Jasmeet Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 1
Judgment pronounced on: 22

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BAIL APPLN. 1362/2024 & CRL.M.(BAIL) 1228/2024
VAIBHAV YADAV

.....
Through: Mr. Narender Hooda, Sr. Adv wi
Shiv Bhatnagar, Ms. Pallvi Hooda, Mr. Y
versus

NARCOTICS CONTROL BUREAU

.....
Through: Mr. Arun Khatri, Sr. SC with M
Khurana, Ms. Shelly Dixit, Ms. Anushka
Advs.

+

BAIL APPLN. 1863/2024
PRITESH AGARWAL

.....
Through: Mr. Vikram Hegde, Mr. Harsh
versus

NARCOTICS CONTROL BUREAU

.....
Through: Mr. Arun Khatri, Sr. SC with M
Khurana, Ms. Shelly Dixit, Ms. Anushka
Advs.

+

BAIL APPLN. 2409/2024 & CRL.M.A. 36876/2024
ARNAV DHANKAR

.....
Through: Mr. Vikram Hegde, Mr. Harsh
versus

NARCOTICS CONTROL BUREAU

.....
Through: Mr. Arun Khatri, Sr. SC with M
Khurana, Ms. Shelly Dixit, Ms. Anushka
Advs.

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By:DEEPANSHU BAIL

MALASIAPPLN. 1362/2024 & Conn. matters

Signing Date:22.04.2025

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Judgment reserved on:
Judgment pronounced on: 22

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BAIL APPLN. 3353/2024 & CRL.M.A. 28060/2024

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|---|--|--|-------|
| | NISHANT RAWAT | Through: Mr. Rohit Dandriyal, Mr. Siddh Nair, Advs. versus | |
| | NARCOTICS CONTROL BUREAU | Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Adv. | |
| + | BAIL APPLN. 4498/2024 JITHIN CHERIAN | Through: Mr. Vikram Hegde, Mr. A Hansaraman, Mr. Harsh Jain, Advs. versus | |
| | NARCOTICS CONTROL BUREAU | Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Adv. | |
| + | BAIL APPLN. 4831/2024 & CRL.M.A. 39287/2024 AVTAR SINGH | Through: Mr. Purvesh Buttan, Mr. Prateek Narwar, Advs. versus | |
| | NARCOTICS CONTROL BUREAU | Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Adv. | |

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| + | BAIL APPLN. 64/2025 YASH GUPTA THROUGH PAIROKAR | Through: versus | |
| | NARCOTICS CONTROL BUREAU | Through: Mr. Arun Khatri, SSC with Ms. Ms. Anoushka Bhalla, Ms. She Adv. | |
| | CORAM: HON'BLE MR. JUSTICE JASMEET SINGH | | |

JUDGMENT

: JASMEET SINGH, (J)

1. These are seven bail petitions filed under Section 439 of the Code of Criminal Procedure (Cr.P.C) seeking regular bail in NCB Case No. VIII/16/DZU/2023 u/s 8 (c), 22(b), 22(c), 27-A & 29 Narcotic Drugs and Psychotropic Substances Act 1985 (NDPS Act).

Factual Matrix

2. The facts pertaining to the present case are that on 19.04.2023 secret information was received by the Delhi Zonal Unit that 28 parcels were lying at DTDC Express Limited, Samalkha, New Delhi, containing narcotic and psychotropic substances. Based on the said information, Sh. Harender Kumar Digitally Signed By:DEEPANSHU BAIL Signing Date:22.04.2025 16:11:43 Dagar, IO constituted a team and reached DTDC Express Limited, Khasra no. 16/6, Telephone Exchange Road Village - Samalkha, New Delhi -110037 at around 11:15 am.

3. After reaching the said office, Sh. Harender Kumar Dagar gave his reason for coming to DTDC office and shared the secret information. He further inquired about the following Consignment Nos./AWB kept in DTDC office.

| Sr. No. | Code |
|---------|-----------|
| 1 | Z13669450 |
| 2 | Z13669451 |
| 3 | Z13669452 |
| 4 | Z13669453 |
| 5 | Z13669454 |
| 6 | Z13669455 |
| 7 | Z13669456 |
| 8 | Z13669457 |
| 9 | Z15669458 |
| 10 | Z13669459 |
| 11 | Z13669460 |
| 12 | Z13669461 |
| 13 | Z13669462 |
| 14 | Z13669463 |
| 15 | Z13669464 |
| 16 | Z13669465 |
| 17 | Z13669466 |
| 18 | Z13669467 |
| 19 | V87616624 |
| 20 | V87616625 |
| 21 | V87616626 |
| 22 | V87616627 |
| 23 | V87616628 |
| 24 | V87616629 |
| 25 | V87616630 |
| 26 | V87616631 |
| 27 | V87445444 |
| 28 | V87445445 |

4. Thereafter, all the above-mentioned parcels were brought before the team. 15 parcels were yellow-coloured envelopes and 13 were sky blue colour envelopes.

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5. The sender's name on all these 28 parcels was the same being AASK & Associates, Vipul Business Park, 910, Badshahpur Sohna Rd, HWY, Sector 48, Gurugram, Haryana 122018, Mob No. 9999665700. Further, Sh. Harendra Kumar Dagar requested the staff members at DTDC Express Limited to become independent witnesses to the seize and search proceedings. Shri. Shashank Kumar S/o Sh. Rajpal Singh present there volunteered for the same. Sh. Harendra Kumar offered his search to the independent witness which was refused by him.

6. The team started by checking parcel AWB No. Z13669450. This was a yellow color envelope on which the name of the sender was AASK & (Illegible) and the recipient's name was Pritesh Aggarwal (Petitioner in Bail Appln. 1863/2024), 7984258114, B/603 Meg Dhanush Apt, Sarelawadi Ghod-Dod- Road, Surat, Gujrat - 395007. On opening the said parcel in the presence of the independent witness 25 LSD blots weighing 0.42 grams were recovered, which is a commercial quantity.

7. The team opened parcel AWB No. Z13669456. It was a yellow envelope on which sender's name was written as AASK & Associates Vipul Business Park, 910, Badshahpur Sohna Rd Hwy, Sector 48, Gurugram, Haryana 122018, Mob No. 9999665700 and the name of the receipt was written as Nishant Rawat (Petitioner in Bail Appln. 3353/2024), Ph- 7456876313, Sitabpur Tiraha Near Balodhi Type Centre, Kotdwara Uttarakhand, 246149. The parcel was opened in the presence of independent witness and 10 LSD Blots weighing 0.17 grams was recovered (commercial quantity).

8. The team opened parcel bearing AWB No. V87616631, which was addressed to Abhishek Anil. When opened 500 blots of LSD weighing 8.34 grams was recovered from the parcel. Notice was issued to Abhishek Anil u/s 67 NDPS Act. Abhishek Anil in his statement disclosed that the said parcel was ordered under the instructions of Jithin Cherain (Petitioner in Bail Appln.

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4498/2024). He further disclosed that Jithin resided in Himachal Pradesh and ran a Café called "Echoes of Nature" at Barshaini, Kasol. Additionally, Abhishek Anil had received 2 parcels containing LSD blots and charas at his house which belonged to Jithin. Another parcel dated 13.04.2023 was collected by Jithin in person from Abhishek Anil's house on 15.04.2023. Abhishek

Anil on the instructions of NCB had called Jithin over Whatsapp and talked to him about the LSD parcel. It is alleged that over the phone Jithin told Abhishek Anil to count and ensure that there were 500 LSD blots and told him to send the LSD blots to Himachal Pradesh with „some parcel for which Jithin assured booking tickets. Abhishek Anil also stated that in April 2023, he had received another parcel containing 10008 blots of LSD.

9. The police issued notice under Section 67 NDPS act on 20.04.2024 and 21.04.2024. On 21.04.2024 in continuation of his previous statement Abhishek Anil stated that Jithin had informed him that a person would come and fetch the LSD blots paper, call was received from Mob. No. 8921209839. Such person was Lino Lalychan.

10. On 22.04.2023 the NCB issued a notice under S. 67 NDPS Act to Jithin, thereby he stated that he had booked parcel AWB No. V87616631 in the name of Abhishek Anil and after receiving such parcel Abhishek Anil would hand it over to him. He further stated that the said parcel contained 500 LSD blots and after receiving the same he was going to hand it over to Ganesh, who is working in a café at Himachal. On 24.04.2023 the petitioner was arrested. On 24.04.2023, in his „voluntary statement the petitioner deposed that his friend Joyal Joseph had told him that if they provided a landing address for LSD blots he would give them a commission and there was no risk in booking it through the dark web.

11. The team opened parcel bearing no. AWB Z13669453 from which a total of 50 LSD blots weighing 0.85 grams (commercial quantity) were recovered, Digitally Signed By:DEEPANSHU BAIL Signing Date:22.04.2025 16:11:43 which was to be delivered to Vaibhav Sharma, 7011798441, B- 215 R&D Building, IIITD Okhla, Industrial Estate, Phase 3, Near Govindpuri Metro Station, New Delhi 110020. Further on 28.04.2023 accused Vaibhav Yadav (Petitioner in Bail Appln. 1362/2024) was intercepted when he came to receive the above-mentioned parcel (recovered 50 LSD blots) at DTDC Courier, Okhla Ph-II, New Delhi. During interrogation Vaibhav Yadav confirmed his involvement. He was then arrested on 28.04.2023.

12. During investigation accused Vaibhav Yadav disclosed that he is a student at IIITD, Okhla Industrial Estate, Phase III, New Delhi - 110020. He further disclosed that the co-accused Arnav Dhankar (Petitioner in Bail Appln. 2409/2024) booked the said parcel through darkweb at his college address. He further stated that Arnav is his school friend at Venkateshwar International School and Arnav is presently studying at NLU, Kolkata. Vaibhav further stated that whenever Arnav came to Delhi he used to come and meet Vaibhav. On one such meeting he had told Vaibhav that he is on darkweb and he knows many vendors who deal in LSD. Vaibhav Yadav further deposed that Arnav Dhankar had ordered the parcels containing LSD twice and had paid through BTC on darkweb. He stated that as Arnav was a permanent resident of Vikaspuri, Delhi he had given his college address for booking the parcels. It is further alleged that Arnav had booked LSD blots at the same address in the name of Vaibhav Sharma and after booking had shared the tracking ID. When the parcel used to arrive the delivery boy would call Vaibhav informing about the arrival of the parcel and then it was received by the reception guard of the college.

13. On 05.05.2023, notice u/s 67 NDPS Act was issued to the co-accused Arnav Dhankar in pursuance of which the voluntary statement of the accused Arnav Dhankar was recorded whereby he admitted his complicity in the present offence. He further stated that he was a 2nd semester LLM student at West Bengal National University of Judicial Sciences, Bidannagar, Kolkata.

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He confessed that he and Vaibhav Yadav are school friends. Arnav further deposed that he used buy drugs on Vaibhav's behalf and that they are partners in drug trafficking.

14. The team opened parcel bearing number AWB No. Z13669459 which is alleged to have the recipient details as Yash Gupta (Petitioner in Bail Appln. 64/2025), 8489764233, 202 Opal Building, GEM Powai Vihar Complex, Powai, Mumbai, 400076". It is alleged that 50 LSD blots papers have been recovered from inside the parcel weighing a total of 0.85 grams. It is also alleged that during investigation another courier bearing number AWB No. 144629435 was addressed to the petitioner, but the contents of the said parcel are not known.

15. Further on 27.04.2023, Sh. Narender Saini (owner of the courier office in Gurgaon) in pursuance of the notice given to him under Section 67 NDPS Act tendered his voluntary statement. He stated that on 20.04.2023 he received a call from vigilance team DTDC and they informed him about the 28 parcels which were booked by his office and were seized by the NCB officials Delhi. He was further told to keep the CCTV footage/video of the customer who had booked the said parcels.

16. Thereafter, on investigation on 19.07.2023 the intelligence officer put up a disclosure that the seizure effected was under crime no. VII/16/DZU/2023 on 19.04.2023 and total 807 LSD blots and 44.7 grams of suspected cocaine was recovered from different 28 parcels at DTDC Hub, Smalkha, New Delhi. It has been alleged that the said parcels were booked from Sec 55, Gurugram by Avtar Singh (Petitioner in Bail Appln. 4831/2024), s/o Sh. Laxman Singh, r/o MCF 414, Near Gayatri Mandir, East Chawla Colony, Ballabgarh, Faridabad, Haryana. It is further alleged that Avtar Singh is the member of syndicate namely Zambada cartel.

17. During investigation it was identified with technical assistance and human intelligence that the parcels were booked from Sec-55 Gurugram. On Digitally Signed By:DEEPANSHU BAIL Signing Date:22.04.2025 16:11:43 19.07.2023, NCB reached the above-mentioned address and after calling out people residing at the residence one 20-25-year boy came out introducing himself as Avtar Singh.

18. During search and seizure of the said house, a light green color envelope containing 02 LSD blots were found. Avtar Singh under his voluntary statement under Section 67 admitted his involvement and he was then arrested on 20.07.2023.

19. The bail petitions of the following have been dealt with in the present case: -

S.No. Name of Petitioner Bail Petition No. Date of Recovery of LSD Arrest Blots

1. VAIBHAV YADAV 1362/2024 28.04.2023 50

2. ARNAV DHANKAR 2409/2024 09.05.2023 50

3. NISHANT RAWAT 3353/2024 16.05.2023 10

4. PRITESH AGGARWAL 1863/2024 19.05.2023 25

5. AVTAR SINGH 4831/2024 20.07.2023 02

6. JITHIN CHERIAN 4498/2024 22.04.2023 500

7. YASH GUPTA 64/2025 01.04.2024 50 Submissions by petitioner in Bail Appln.
1863/2024 - Pritesh Aggarwal

20. It is stated that the petitioner was arrested on 19.05.2023, has spent nearly 1 year 11 months, in custody and he has no criminal antecedents. It is stated that failure to conduct and conclude the trial within reasonable period results in prolonged incarceration of the accused and thus militates against the accused's rights under Article 21. Therefore, in such circumstances the accused's rights under Article 21 will prevail over the twin test under Section 37(1)(b), NDPS Digitally Signed By:DEEPANSHU BAIL Signing Date:22.04.2025 16:11:43 Act. Reliance is placed on Mohd. Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC OnLine SC 352, Ankur Chaudhary v. State of MP 2024 SCC OnLine SC 2730, Rabi Prakash v. State of Odisha 2023 SCC OnLine SC 1109, Pankaj Sahu v. Narcotics Control Bureau, Bail Application 4109 of 2024.

21. It is stated that 6 accused persons including the petitioner were named in the main complaint dated 16.10.2023. Two additional accused were named in the first supplementary complaint dated 15.01.2024, two more accused persons were named in the second supplementary complaint. It is stated that 3 persons are on anticipatory bail i.e. Joy Mitra, Jyotika Singh and P. Vijai Pranav.

22. It is also stated that the NCB is not separating the present case qua the petitioner which is leading to no reasonable possibility of the trial commencing and concluding soon.

23. It is stated that similarly placed persons i.e. Joy Mitra and Jyotika Singh (recipients of two of the seized parcels containing commercial quantities of LSD) have been granted interim protection by this Court. It is further been stated that the mere fact a parcel is being addressed to the petitioner does not prove that who is receiving the parcel and therefore it is possible for any person to take the parcel before it reaches the addressee. It is also stated that it is common for parcels containing contrabands to be addressed to decoys of wrong names. To ensure that the actual intended recipient of the parcel is identified the procedure provided under 2 (vii b) read with 50A NDPS should have

been followed by the NCB i.e. the procedure of controlled delivery has not been followed, which if followed would have taken the matter beyond suspicion. Thus, the petitioner has been arrested merely because his name was mentioned on the parcel. Reliance for the same is placed on Sagar v. State of Himachal Pradesh Cr.M.P. No. 1755/2024 decided on 27.08.2024.

Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

24. It is submitted by the counsel for the petitioner that to raise the presumption under Section 35, the prosecution has to discharge the initial burden and then prove the foundational facts. In the absence of such evidence by the prosecution the presumption cannot be drawn against the applicant. Subsequently, the presumption under Section 35 NDPS can only be taken at the stage of trial.

25. It is further stated that no recovery of any contraband has been made from the applicant and there is no material on record demonstrating any alleged payment to the Zambada Cartel. The mere fact that the parcel had been addressed to the applicant cannot indicate involvement of the accused. Also, there is no material on record to show the applicant has booked the parcel or the accused was aware of the contents of the parcel.

26. It is also stated that the emails between the DTDC and the applicant are insufficient to place any culpability on the accused. There is no ticket number and there is also no complete trail of communication between the applicant and DTDC. The same therefore cannot be considered as a circumstance which makes out „personal knowledge as to the existence of the contraband or any kind of „conscious possession .

27. It is argued that the incriminatory email refers to a package booked on 07.04.2023 and the case of the prosecution is that the parcel containing the contraband was booked on 06.04.2023. Also it is argued that all the incriminating screenshots of chats and pictures recovered from the phone of the petitioner are not direct communications between the petitioner and any other person but are screenshots posted on a group that the petitioner was part of. Reliance for the same is placed on Bharat Chaudhary v. Union of India 2021 SCC OnLine SC 1235.

28. Additionally, it is stated that the statement of the petitioner under Section 67 of the NDPS Act cannot be relied upon. It is stated that the parcel slip Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 discovered from the co-accused Naveen Fogat's phone concerns parcel bearing number 144629428 booked on 11.04.2023, whereas the seized parcel was bearing AWB No. Z13669450 was booked on 06.04.2023. The parcel slip no. Z144629428 was part of 14 parcels booked by Edwise Delhi via Trackon Couriers while the seized parcel bearing AWB No. Z13669450 was part of 28 parcels booked by AASK & Associates via DTDC.

29. It is stated that the slip recovered from the phone of the co-accused merely shows that a parcel was addressed to the petitioner and there is nothing to show that the petitioner was aware of the

contents of the parcel and that he ever received/ was in possession of the parcel.

Submissions by NCB in Bail Appln. 1863/2024 - Pritesh Aggarwal

30. On 04.05.2023, Pritesh Aggarwal, s/o Sheo Bhagwan in pursuance of notice under Section 67 NDPS Act, tendered his voluntary statement. In his statement, he stated his present address as B-603, Megh Dhamesh Apartment, Sarelawadi Ghod Dod Road, Surat Gujrat presently. He further stated that after completing BBA from MIT Pune, in 2018 he was looking after his family business of textiles. He agreed to the fact that the address and number on parcel bearing number AWB no. Z13669450 as his, but he further stated that he was not aware of who had given his number and address and had booked the said parcel. He denied ever using dark web or Wickerme. He then handed over his two mobile phones having numbers 7984258114, 9558064629 and 655416672.

31. A notice u/s 67 NDPS Act was issued to the petitioner for further examination on 19.05.2023. On 17.05.2023 the IO concerned received the data extraction report of the seized mobile phone from the petitioner. Multiple incriminating chats and photos of narcotic substances were recovered from the mobile phone of the petitioner. Additionally, on further analysis an email Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 exchanged between the DTDC courier service, and the petitioner was also recovered regarding the tracking of this shipment.

32. In continuation of his earlier statement on 19.05.2023 petitioner stated that the parcel bearing AWB No. Z13669450 was ordered by him through Wicker me. He further stated that he had ordered 25 LSD blot papers from one Zambada Cartel. He stated that he had denied booking the said parcel in his earlier statement as he was afraid. Petitioner disclosed that Zambada Cartel is a vendor which deals in all types of drugs on social media and darknet. The payment to Zambada cartel is made through bitcoin wallets. Petitioner further confirmed the Email exchange between him and DTDC courier service. Thereafter, petitioner was arrested.

33. Additionally, on 21.05.2023 petitioner further deposed that that Zambada Cartel had shared a link to their Bitcoin wallet, thereafter the petitioner paid Rs. 15,000/- cash in conversion for cryptocurrency to someone in Surat and had then paid Zambada Cartel.

34. The Investigating Agency i.e. NCB submits that after proper inquiry and investigation petitioner is involved in criminal conspiracy and has allegedly been involved in sale, purchase, possession, consumption, import and export interstate of narcotics and psychotropic substances. This tantamount to an illegal trade by illegal act and illegal means to misuse social media platforms and is thus punishable under the NDPS Act.

35. It is submitted that Panchnama dated 19.04.2023 and inventory was prepared as rules. Further, an application u/s 52A NDPS was filled before Ld. Duty MM Patiala House Court, New Delhi. It is also stated that Rule 13(1) required that samples after being certified by the Magistrate be sent directly to the jurisdictional laboratory. In this case, the Magistrate certified the samples vide order dated 08.07.2023 (Saturday) and it was sent to the CFSL on the next working day i.e. 10.07.2023

and thus there has been no delay. Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

36. Additionally, it is stated by the Investigating Agency that the procedure for controlled delivery as given under Section 50A NDPS to ascertain the actual recipient of the contraband is procedural in nature and is entirely the discretion of the Investigating Agency. The word „may“ used under the section does not make it compulsory to undertake controlled delivery.

37. It is also stated by the Investigating agency stated that the weight of the paper and LSD is an integral part for ingestion of the drug by the user and is thus covered under „preparation“ of a substance within the meaning of Section 4 of the Drugs Misuse and Trafficking Act 1985. Reliance is placed on Hira Singh v. UOI AIR 2020 Supreme Court 3255, NCB v. Anuj Keshwani Criminal Writ Petition No. 2077/2021 and Rijesh Ravindran v. UOI AIR ONLINE 2021 KAS 1832.

38. Lastly, it is stated that the petitioner had enquired about the above- mentioned parcel from DTDC and as the said parcel has been seized by the NCB, it shows that the accused was aware of the contents of the said parcel. Various pictures including those of LSD blots have also been recovered from the phone of the petitioner and some chats regarding drugs have also been found from his mobile phone. Therefore, it is alleged that the presumption of Section 35 and Section 54 NDPS Act is against the petitioner and hence he is not entitled to be released on bail. It is also stated that there is an embargo under Section 37 NDPS Act, reliance for the same is placed on UOI v. Aharwa Deen - 200 VI AD (SC) 155, UOI v. Ram Samuj&Anr. - 1993 (3) CC Cases (SC) 22, UOI v. Thamisharasi & Ors. 1995 SCC (Crl.) 665 (SC).

Submissions by the Petitioner in Bail Appln. 3353/2024 - Nishant Rawat

39. It is alleged by the counsel for the petitioner that there are discrepancies regarding the date of receipt of the secret information. The complaint copy Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 states that the secret information was received on 19.04.2023, the panchnama report states it was received on 19.03.2023 and the seizure report states it was received on 16.04.2023. It is stated that the three conflicting dates lead to ambiguity and raises doubts over the authenticity and reliability of the investigation process.

40. It is also stated that there is a significant and unexplainable delay in the booking and seizure of the said parcel. The alleged parcel was booked on 06.04.2023 from Gurugram, Haryana and was seized from DTDC Express Ltd., Khasra No. 16/6, New Delhi on 19.04.2023. It is stated that this is an anomaly and is irregular as the courier company (DTDC) claims day-determined delivery as per their website. It is also stated that this delay impacts the integrity of the chain of custody, a critical requirement under the NDPS Act.

41. Further, it is stated that NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 mandates a strict adherence to procedural safeguards for the seizure, storage and handling of narcotic substances. Deviation from the same casts serious doubt on the reliability of the authenticity and

recovery of the seized articles.

42. Additionally, it is stated that under Section 55 NDPS Act, a duty is imposed on the Officer-in-Charge to ensure safe custody of seized articles. It is stated that there is a failure to show how in the absence of proper documentation from the prosecuting agency the authenticity of the recovery can be relied upon.

43. It is further stated that as per the test memo, the samples were dispatched from the malkhana on 07.07.2023 and were presented before the court on 08.07.2023 and were forwarded to Forensic Science Laboratory on 10.07.2023. It is alleged that the contraband remained in the custody of the NCB throughout the night of 07.07.2023. It is submitted that due to delay and the lack of clarity Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 in the documentation reasonable apprehension about tampering and substitution during this period have been created.

44. Lastly, it is said that NDPS Act contains rigid and stringent punishment. It mandates strict adherence to the procedural safeguards. Section 52A NDPS Act read with Rule 8 and Rule 9 of the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 states that the sampling and sealing of the contraband be carried out in the presence of a Magistrate. It is alleged that in the case at hand, there is a gap in the timeline between dispatch and presentation which raises doubts about the mandatory guidelines for handling and custody of seized contraband being followed.

Submissions by NCB in Bail Appln. 3353/2024 - Nishant Rawat

45. It is alleged by the Investigating Agency that on 16.05.2023, petitioner gave his voluntary statement under Section 67 NDPS Act, wherein his involvement in the offence was admitted by him. It is alleged that he had further disclosed that he had ordered 10 LSD blots through Wicker Me application from a vendor „Zambada Cartel“ using cryptocurrency.

46. Based on his confession and further investigation, it is alleged that the petitioner was arrested and produced before the Hon ble Court on 17.05.2023 where he was remanded to 2 days of police custody. It is stated that the phone number i.e. 7456876313 which was mentioned on the parcel was recovered from the petitioner during his arrest.

47. It is alleged that the petitioner disclosed critical information about the Zambada cartel, disclosing that the cartel was operated via telegram profile name @Zambadacartel-abot and was exclusively used on the Wicker Me application for transactions and orders. The cartel allegedly provided a menu Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 listing various narcotic substances and their respective prices along with orders placed and payments which were made through cryptocurrency.

48. Further the NCB alleges that on 08.07.2023 data was extracted from petitioner's phone. The said data allegedly contained - drug related chats, photos of narcotic drugs and psychotropic substances, a detailed drug menu from the Zambada Cartel, the session ID of Zambada Cartel and a

tracking photo of the above-mentioned parcel. It is further alleged that this extracted data corroborated the voluntary statement made by the accused, thus establishing the link between the petitioner and the narcotic substances.

49. It is alleged by the Investigating Agency that the evidence collected by it is sufficient to establish the guilt of the petitioner. Further, due process under the NDPS Act has been followed and all necessary procedural safeguards in seizing the contraband and collecting the evidence have been followed. It is also alleged that the confession of the petitioner recorded u/s 67 NDPS Act has been corroborated by the forensic evidence retrieved from the phone of the petitioner and the seizure of narcotics from the intercepted parcels.

50. Lastly, it is alleged that the statement of the petitioner is voluntarily given and all legal procedures have been followed in recording the statement and is corroborated by independent and tangible evidence which includes photographs, digital data and the tracking of the said parcel.

Submissions by the Petitioner in Bail Appln. 4831/2024 - Avtar Singh

51. It is submitted by the counsel for the petitioner that the petitioner has been falsely implicated in the present case. It is submitted that through the disclosure statement of Intelligence Officer Mr. Chetan Sharma, the name and address of the petitioner were revealed for the first time on 19.07.2024 with the help of technical assistance and human intelligence, however it is stated that this Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 in direct conflict with the Godown Register, maintained by the NCB itself, which already listed the petitioner's name as early as 19.04.2023. It is stated that this raises serious doubts and if this is so, though the petitioner did not admit anything, then the failure to arrest the petitioner immediately after knowing his identity coupled with the subsequent fabricated disclosure by the prosecution shows a deliberate attempt to mislead the Court and create a false narrative.

52. On 19.07.2024, it is the case of the Investigating Agency that for the first time NCB through the help of technical assistance and human intelligence got to know the name and address of the person who booked the alleged parcels from Gurugram, then this disclosure/statement is contradictory and in contravention of the Godown Register which is handwritten and on instructions of the Jr. Intelligence Officer Shri Harendra Kr. Dagar dated 19.04.2023. Moreover, it is alleged that Form-2 at page 142 of paper book discloses the entry which is entered in the Godown Register vide entry no. 956 under the signature of Shri Anil Kumar Tiwary (Malkhana In-charge/Superintendent NCB - Delhi Zonal Unit). The Godown Register with the same Godown Entry Sr. No. 965 at column no.1 at column no. 5 at the bottom at serial no. (vii) discloses the name of the petitioner Avtar Singh (which admittedly as per the case of the prosecution was entered on 19.04.2023). Thus, it is stated that the petitioner has been falsely implicated in the case on 19.07.2024.

53. Also, the counsel for the petitioner questions the delay in arrest of the petitioner if NCB knew the name of the petitioner as early as 19.04.2023.

54. Further, it is submitted that on 20.04.2023 Sh. Chetan Sharma, Intelligence Officer, NCB Delhi, Zonal Unit, wrote a letter to the Manager DTDC Hub, Smalkha, New Delhi requesting him to provide the details of the sender of the parcels. The vigilance department of DTDC wrote an email wherein they attached a reply to the letter of IO against invoice no. Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 VIII/16/DZU/2023. In the reply DTDC stated that "Sender has given the KYC to the booking CP for the booking of these shipments is attached with letter." It is stated that a copy of KYC of the sender taken by the booking CP was enclosed as documents enclosed with the reply. The prosecution has not produced in the chargesheet the said enclosed document/KYC of the sender and this casts serious doubts on the fair investigation of the prosecution.

55. It is submitted that Sh. Narender Saini tendered his statement and stated that he has a courier office in Gurgaon and took a franchise of the same in 2005. He stated that on 20.04.2023 he received a call from vigilance team DTDC and they informed that 28 parcels which were booked by his office were seized by NCB Delhi and told him to keep CCTV footage/video of the customer. It is further submitted that despite having taken the mobile phone numbers of the alleged sender from Sudhir Kumar, the prosecuting agency did not seek information about the phone numbers till 06.09.2023.

56. Further, it is submitted that on 09.09.2023 the Nodal Officer provided the information stating the mobile no. 8729096152 belongs to one Shri Naresh Chander s/o Jagdish with alternate number as 9781739047 and the mobile bearing no. 9582338480 belongs to one Sonali Sikka d/o Mukesh Kumar Sikka with alternate mobile no. 8766344545. Important is that the address of the allottees of the number was also given in the KYC application form so provided but no statement of any of the said persons is recorded till now.

Submissions by NCB in Bail Appln. 4831/2024 - Avtar Singh

57. It is alleged than on 19.07.2023, NCB raided the residence of the accused Avtar Singh, at MCF - 414, East Chawla Colony, in the presence of independent witnesses. During the search, a green envelope containing 2 LSD blots was recovered from underneath the mattress in one of the rooms. Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

58. It is further stated that in compliance with Section 67 NDPS Act, Avtar Singh was questioned who admitted his involvement in trafficking of narcotics, following which he was arrested on 20.07.2023. It is alleged that during investigation it was found that Avtar Singh had used a bitcoin account to send funds to the co-accused Naveen Fogat. It is stated that this transaction indicated a sophisticated mechanism involving cryptocurrency for funding drug trafficking activities.

59. It is stated by the NCB that the mandate under Section 52A of NDPS Act, regarding the disposal of seized narcotics has been duly followed in this case. Reliance is placed on NCB v. Kashif SLP CrI. No. 12120/2024.

60. It is also stated by the Investigating Agency that the procedure for controlled delivery as given under Section 50A NDPS to make out the actual recipient of the contraband is procedural and depends on the discretion of the Investigating Agency as to how to conduct the investigation. The word „may“ is used under the section and therefore it is not compulsory to undertake controlled delivery.

61. It is also stated by the NCB that the entry in the Godown register constitutes a routine, general entry made by the NCB wherein the names of the accused are recorded upon NCB's apprehension. This entry does not in any manner prejudice the case of the accused.

62. Additionally, it is stated by the NCB that 2 LSD blots have been recovered from the residence of the accused linking him to the trafficking operation. There is also a CCTV footage where the parcels were booked and the same is available. Lastly, there is also a receipt of cryptocurrency transfer from Avtar Singh to Naveen Fogat.

Submissions by Petitioner in Bail Appln. 1362/2024 - Vaibhav Yadav Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

63. It is stated by the petitioner in the present case that the mandate u/s 52 NDPS Act has not been fulfilled because of the irregularities committed by the prosecuting agency during the seizure and sampling proceedings. It is stated that Rule 3(5) of NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 mandates the preparation of a detailed inventory of seized material including packaging, containers, conveyances and other seized articles which shall be attached to the panchnama/seizure memo. As per Rule 8, this inventory is prepared in Form - 4 and applied to the Magistrate u/s 52A NDPS Act. In the present case, Form 4/inventory has not been prepared.

64. It is also stated the prayer in the application u/s 52A NDPS Act filed by the investigating agency does not seek certification of inventory as required u/s 52A 2 (a) NDPS. The order of the Magistrate dated 08.07.2023 does not mention Form - 4 being considered, but it is stated that in a mechanical manner and despite the absence of inventory and a prayer of certification, an inventory has been certified. Thus, it is stated that the certification of this inventory cannot be held valid in law. Reliance is placed on Mangilal v. State of M.P., 2023 SCC OnLine SC 862 and Yusuf v. State, 2023 SCC OnLine SC 1328.

65. It is also stated that Rule 8 of the NDPS Rules 2022 requires for an application to be made u/s 52A NDPS Act to the Magistrate „at the earliest“ after the seizure. According to the panchnama/seizure memo the seizure was done on 19.04.2023 at around 11:30 AM. However, the application u/s 52A was filed on 19.05.2023 after an unreasonable and arbitrary delay of 1 month. Further it is stated that an adjournment was sought by the NCB on 01.06.2023 and the samples were finally drawn in front of the Magistrate on 08.07.2023 which is after an additional delay of 50 days. Reliance is placed on Kashif v. Narcotics Control Bureau, 2023 SCC OnLine Del 2881.

66. It is stated Rule 13(1) requires that samples after being certified by the Magistrate should be directly sent to the jurisdictional laboratory. In the present Digitally Signed By:DEEPANSHU BAIL

APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 case, however, after the being certified by the Magistrate vide order dated 08.07.2023, the samples were sent back to the godown on the same date and sent to FSL on 10.07.2023 without any explanation and in contravention of Rule 13(1). Further, it is stated the joint reading of Rules 3, 8, 9, 10 & 12 NDPS Rules shows that the seizing officer, after weighing the allegedly recovered contrabands, had to pack them in the same package and containers in which they were found and then seize the same. In the present case, it is stated that the seizing officer separated the recovered contraband into ziplock pouches brought by him from NCB, and not in the original packages/containers.

67. It is further stated that Rules 3(2) requires that NDPS and controlled substances are found in packages or containers shall be weighed and serially numbered separately. It is submitted that this has not been done and all packages/containers have been put together in one pullanda marked „PM as is apparent from the panchnama/seizure memo. Additionally, it is stated that the packages/containers/conveyances in pullanda PM have not been de-sealed and photographed in front of the Magistrate as required u/s 52A NDPS.

68. It is submitted that Section 57 NDPS Act requires the arresting/seizing officer to make a full report of the arrest/seizure to his immediate superior within 48 hours of such arrest/seizure. However, in the present case the applicant was arrested on 28.04.2024, the arresting officer did not report the seizure of mobile phone and laptop of the accused to his immediate superior in the arrest report u/s 57 NDPS.

69. That Rule 10 NDPS Rules, 2022 requires that samples shall be drawn from each package, but in the present case it is stated this has been ignored and all the recovered LSD papers have been sent to FSL without any representative samples. Further only 6 out of the 28 alleged recipients of the parcels containing contraband have been arrested and the charges have not been framed yet and the investigation is still ongoing. Reliance for the same is placed on Yusuf (Supra), Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 Mangilal (Supra), Mohd. Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC OnLine SC 352 and this Court's holding in Amit Kumar Singh (Supra), Mohit Bhati v. State (Supra) and Mohd. Kashif (Supra).

Submissions by NCB in Bail Appln. 1362/2024 - Vaibhav Yadav

70. It is alleged by the Investigating Agency that on 05.05.2023, a notice under Section 67 was served to co-accused Arnav Dhankar, wherein he stated that Vaibhav Yadav used to buy LSD blots on his behalf and that he and Vaibhav Yadav are partners in drug trafficking. Vaibhav Yadav is his school friend with mobile number 7011798441. It is further alleged that the profit earned from the narcotic trade was shared between him and Vaibhav. He further disclosed his Instagram ID as serotonin-donor. Vaibhav transferred Rs. 30000 in his account during April, 2023 which he changed to bitcoin through the link provided by Zambada Cartel and transferred the bitcoins to Zambada Cartel. Further the tracking ID Z13669453 of DTDC for receiving and tracking the parcel was also provided by him.

71. It is alleged that on 08.05.2023, Arnav Dhankar on being asked in his statement disclosed to the NCB officer while showing his bank statement the transaction dated 13.03.2023 from Vaibhav Yadav of Rs. 17,000, he disclosed that Vaibhav had sent the money for placing the order of 50 LSD blots which was booked through Zambada Cartel in March. Zambada cartel sent him a link (P2P) to convert INR 17,000 to Bitcoin. Regarding the transaction dated 02.04.2023 it was deposed that Rs. 30,000/- had been sent by Vaibhav for placing the order for the current seized parcel which was booked through Zambada Cartel in April, 2023. It is further deposed that Zambada Cartel sent Arnav Dhankar the link to convert 30,000/- to bitcoin. Vaibhav Yadav also sent Arnav his bitcoin address to transfer the said amount to him. It is alleged that Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 the said fact has been further corroborated from the data extracted from the phone of accused.

72. It is the submission of the Investigating Agency that the panchnama dated 19.04.2023 and inventory have been prepared in accordance with the rules laid down by the NDPS Act. It further submitted that an application u/s 52A NDPS was duly filed before Ld. MM Patiala House Court, New Delhi. Also, that rule 13(1) which lays down drawing of samples after certification by the Magistrate has been complied with, as after certification vide order dated 08.07.2023, it was sent to the CFSL on the next working day i.e. 10.07.2023 and therefore there has been no delay.

73. Additionally, it is alleged that the mandate u/s 52A NDPS Act has been fulfilled and there have been no irregularities with the same.

74. It is stated by the Investigating Agency that the procedure for controlled delivery as given under Section 50A NDPS to ascertain the actual recipient of the contraband is procedural in nature and is entirely discretion of the Investigating Agency.

75. It is also stated by the Investigating agency stated that the weight of the paper and LSD is an integral part for ingestion of the drug by the user and is thus covered under „preparation of a substance within the meaning of Section 4 of the Drugs Misuse and Trafficking Act 1985. Reliance is placed on Hira Singh v. UOI AIR 2020 Supreme Court 3255, NCB v. Anuj Keshwani Criminal Writ Petition No. 2077/2021 and Rijesh Ravindran v. UOI AIR ONLINE 2021 KAS 1832.

Submissions by the Petitioner in Bail Appln. 2409/2024 - Arnav Dhankar

76. It has been contended by the counsel for the petitioner that the petitioner is not guilty of any offence under the NDPS Act as the parcel bearing number Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 AWB No. Z13669453 was neither sent nor recovered from the petitioner. It is also stated that there is nothing on record to show that the payments made by the co-accused Vaibhav Yadav (Petitioner in Bail Appln. 1362/2024) were in relation to the said parcel or any other parcel containing narcotics or psychotropic substances.

77. It is stated that there is nothing on record to show the petitioner made any payments to the „Zambada cartel for the alleged purchase of the LSD blots found in the parcel. It is stated that even

though NCB has produced petitioner's bank statements, there is nothing to show that the payment of (i) INR 17,000 between the petitioner and Vaibhav on 13.03.2023 or (ii) the alleged payment of INR 30,000 to Shaik Mahameed on 02.04.2023, have any connection to the parcels or any illicit substances. The NCB has produced an email from one „shaikshafiullah1@gmail.com“ stating that Shaik had received INR 30,000 from the petitioner and had converted the same to bitcoin. It is stated that neither Shaik Mahameed has been made a witness nor has his statement u/s 67 has been taken. Thus, it stated that the said email cannot be considered and it only shows that the petitioner had purchased a bitcoin and no connection with the alleged offence is established.

78. It is further stated that the NCB relies upon chats alleged to have been extracted from the phone of Vaibhav Yadav with the petitioner. A perusal of the report of the private forensic agency with respect to the phone of Vaibhav Yadav indicates that while the phone number of the petitioner is +91 99532733479, however the number of the chat appears to be +91 9953226190. It is stated it is unknown who the said number belongs to. The chats of Vaibhav Yadav are with +91 9953226190 while the number of the petitioner is +91 99532733479, there is no averment that +91 9953226190 belongs to the petitioner.

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79. It is submitted that there is no reference to the parcel or the parcel conversations between the petitioner and the co-accused which has been recovered from the phone of the petitioner, except some screenshots recovered from the phone of Vaibhav, which are accompanied by a report by „Sherlock Institute of Forensic Sciences“, which is a private laboratory. It is submitted that the petitioner has had no contact whatsoever with the rest of the co-accused.

80. The statements made by the petitioner, or the co-accused Vaibhav Yadav have neither led to any recoveries pursuant to the statements nor has any material object been recovered. Reliance for the same is placed on PulukuriKotayya v. The King-Emperor, 1946 SCC Online PC 49 & Jasbir Singh v. Narcotics Control Bureau, 2023 SCC OnLine Del 134.

81. Further, it is stated that the petitioner, in his statements, is alleged to have provided the username and password of a Wickr Me account in which there were allegedly incriminatory chats. The recovery of the username and password from the statement cannot be said to be recovery in terms of Section 27 of the Indian Evidence Act as the same is not a material object.

82. It is stated that the chats on social media which do not have corroborative prima facie evidence to show that such account belongs to the accused, do not make out a case against the accused. Reliance is placed on Jasbir Singh v. Narcotics Control Bureau, 2023 SCC OnLine Del 134. Also, the counsel for the petitioner submits that while the petitioner has given the ID and password of the Wickr Me account „diamorphine“, the Wickr Me chats produced by the NCB belong to „diahmorphine“ (additional „h“ in the ID). This indicates that the ID and password recovered from the petitioner could not have led to message pertaining to different account and hence these messages cannot be attributed to the petitioner.

83. Additionally, it is stated that Wickr Me chats indicate that some person was trying to purchase some contraband for the New Year and cannot by any Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 stretch be pertaining to the present parcel, which was allegedly booked in April 2023. It is stated that mere WhatsApp messages from the devices of the accused do not amount to sufficient material to establish a live link between the accused and co-accused. Reliance is placed on *Bharat Chaudhary v. Union of India*, 2021 SCC OnLine SC 1235.

84. The learned counsel for the petitioner states that the petitioner did not have requisite knowledge of the true contents of the package and therefore cannot be said to be in conscious possession of the alleged contraband. It also argued that Court had granted bail to an accused even when the parcel containing contraband was booked by him on instructions of the co-accused without having requisite knowledge about the real nature of the contents of the parcel and the accused was not involved in any other case under the NDPS Act. Reliance is placed on *Vipin Mittal v. National Investigation Agency*, 2023 SCC OnLine Del 3270, *Deep Chand Kumar v. NCB*, 2023 SCC OnLine Del 3330.

85. Additionally, it is stated by the counsel for the petitioner that the procedure for controlled delivery as given under Section 50A NDPS to ascertain the actual recipient of the contraband is not followed by the investigating agency.

86. It is stated that the paper blots should not have been counted when determining the quantity of LSD blots recovered. It is stated that LSD appears in crystalline, liquid and other forms. It is usually dissolved in ethyl alcohol or another solvent and then dropped or stored onto a carrier, such as a blotter paper. Thus, to consider the weight of the „preparation or the „mixture , it is the weight of such solvent which is to be included and not the blotter paper, which is stated to be akin to a bottle in which an alcoholic beverage is stored.

87. It is said that the Hon ble Supreme Court in *Hira Singh v. Union of India*, (2020) SCC 272 has held that the weight of the neutral substance in a mixture ought to be included while determining the small or commercial Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 quantity of narcotic drug and psychotropic substance. It is said that the LSD mixed with ethyl alcohol is the mixture as envisaged in *Hira Singh*. The blotter paper is used to store or preserve the mixture and is not a neutral substance. Therefore, the weight of blotter paper should not be considered. Reliance is placed on *Jagath Ram Joy v. State of Kerala*, 2022 SCC OnLine Ker 9824.

88. The counsel for the petitioner also relies on Section 64A NDPS Act which provides that addicts charged with offences involving small quantities of narcotic drugs or psychotropic substances will not be liable to prosecution if they undergo medical treatment for de-addiction. It is stated that the intent behind the provision is to rehabilitate those who use prohibited substances for personal consumption. It is stated that if the weight of the blotter paper is also included in determining the weight of LSD, Section 64A of the Act will be rendered meaningless as it would be impossible to ever be in possession of a small quantity of LSD and therefor be eligible for de-addiction treatment. It is

submitted that in the present case, if the weights of the blotter paper are included, the weight one blot of LSD would be 0.85 grams divided by 50 blots = 0.017 grams. Thus, one blot of LSD is more than eight times the small quantity (0.002 grams). It is stated that such an interpretation makes the small quantity for LSD, provided under NDPS meaningless and ineffective. It is further submitted that Courts should interpret the law in such a manner so as to give effect to the intention of Parliament in deciding a small quantity for LSD and providing the mechanism for de-addiction.

89. Lastly, the counsel for the petitioner states that the petitioner was arrested in May 2023 and no charges have been framed. There are 10 accused persons, 3 chargesheets and 35 witnesses which are to be examined. Therefore, the trial is unlikely to conclude in the near future. The petitioner has been in custody for almost 2 years since 05.05.2023 and has been enlarged on interim bail on several occasions for surgery, medical treatment and for examinations. Reliance Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 is placed on Man Mandal v. State of West Bengal, SLP (Crl.) 8656/2023, Mohd. Muslim @ Hussain v. State (NCT of Delhi), 2023 SCC OnLine SC 352 and Pankaj Sahu v. Narcotics Control Bureau, Bail Appln. 4109/2024.

Submissions by NCB in Bail Appln. 2409/2024 - Arnav Dhankar

90. The submissions by the NCB for the petitioner in the present bail petition are the same as that for petitioner in bail petition 1362/2024 i.e. Vaibhav Yadav and hence are not repeated herein for the sake of brevity.

ANALYSIS AND FINDINGS Article 21

91. The Hon ble Supreme Court in a catena of judgments has held that the rights of a speedy trial of an accused are paramount and in casethe Courts are unable to guarantee a speedy trial, the benefit of bail under Article 21 of the Constitution of India must be extended.

92. Article 21 of the Constitution ensures that no individual shall be deprived of their life or personal liberty except through a procedure established by law. The personal liberty of undertrial prisoners is a fundamental right derived from this Article. Until an individual is convicted, they are presumed to be innocent and entitled to a fair procedure and trial. Courts have embraced the principle that bail is the norm and imprisonment is the exception. The liberty of an accused person is of utmost importance and should only be restricted by a fair and reasonable legal procedure.

93. It has also been held by the Hon ble Apex Court that the twin test of Section 37 of the NDPS Act, must give in to the primacy of Article 21. Reliance is placed on Mohd. Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 OnLine SC 352, Ankur Chaudhary v. State of MP 2024 SCC OnLine SC 2730, Rabi Prakash v. State of Odisha 2023 SCC OnLine SC 1109, Pankaj Sahu v. Narcotics Control Bureau, Bail Application 4109 of 2024.

94. The common thread in all the aforementioned judgments is that Constitutional Courts are required to safeguard the fundamental rights of the accused as guaranteed by Article 21. While special statutes impose strict conditions for granting bail, they should not be used as a means to detain the accused indefinitely without a reasonable prospect of a swift trial. Simply charging an individual under these special statutes should not serve as a punishment that infringes upon Article 21. A perusal of the cited judgments indicates that Article 21 takes precedence over the stringent conditions outlined in Section 37 of the NDPS Act. If an accused has been detained for an extended period without a reasonable likelihood of the trial concluding, Article 21 will prevail.

95. In the present case, there are 3 chargesheets and as of today at least 35 witnesses. Till 31.01.2025, the charges had not yet been framed. All the petitioners in the present case have undergone incarceration for a period of almost 2 years (ranging from 1 year 11 months to 1 year 9 months). The trial is yet to begin and keeping in view the nature of complexity and the number of witnesses to be examined, it is highly unlikely that the trial will conclude in the near future.

96. The petitioners except the above chargesheets have no other criminal antecedents. The petitioners are young adults and most of them are pursuing professional courses. I am of the view, continued incarceration may have grave implications for them. The Hon ble Apex Court in Mohd. Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC OnLine SC 352 observed as under: -

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23. 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. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31-12-2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 prisoners in the country. Of these 1,22,852 were convicts; the rest 4,27,165 were undertrials.

24. The danger of unjust imprisonment, is that inmates are at risk of "prisonisation" a term described by the Kerala High Court in A Convict Prisoner v. State as "a radical transformation" whereby the prisoner: (SCC OnLine Ker para 13) "13. ... loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity and autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes."

25. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal" (23 (also see Donald Clemmer's "The Prison Community" published in 1940 29). Incarceration has further deleterious effects-where the accused belongs to the weakest economic strata:

immediate-loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts, Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials-- especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

97. While deciding bail petitions under the stringent provisions of NDPS Act a fine balance has to be achieved between Section 37 of the NDPS Act and the Fundamental Rights which are enshrined in Part III of the Constitution. The same has been held by the Hon ble Supreme Court in Ankur Chaudhary v.

State of MP 2024 SCC OnLine SC 2730, wherein the court observed as under:

6. Now, on examination, the panch witnesses have not supported the case of prosecution. On facts, we are not inclined to consider the Investigation Officer as a panch witness. It is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.

7. In view of the above, we are inclined to allow this petition and direct to enlarge the petitioner on bail on furnishing the suitable bail bonds and sureties and on such other terms and conditions as may be deemed fit by the trial Court.

98. Additionally, the Hon ble Supreme Court in repeated cases has granted bail to the accused persons dealing with commercial quantities of narcotics as under: -

| SLP No. | Name of Parties | Quantity | Incarcerat |
|------------------|-----------------|----------|------------|
| Digitally Signed | | | |

By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 SLP (CRL.) No. Chitta Biswas 46 bottles 01 year 07 months 8823/2019 alias Subhas v. containing The State of West codeine mixture Bengal SLP (CRL.) No. Naeem Ahmed 340 grams of 01 year 11 months 230/2024 alias Govt. of smack NCT of Delhi SLP (CRL.) No. Pallab Senapati v. 22.5 Kgs of Ganja 02 years 02 14344/2024 The State of West months Bengal SLP (CRL.) No. Man Mandal v. 99 bottles of Almost 02 years 8656/2023 The State of West phensedyl syrup Bengal containing codeine phosphate

99. The Hon ble Supreme Court in the case of Mohammad Salman Hanif Shaikh v. The State of Gujrat SLP (Crl.) 5530/2022 has observed as under: -

As per the allegations, 358 bottles of cough syrup containing codein of 'commercial quantity' was recovered from the petitioner.

We have heard learned counsels for the parties and are of the considered opinion that the questions like whether the contraband recovered from the petitioner is of 'commercial quantity' or whether codein phosphate is a manufactured drug or a narcotics substance, need not be go into at this stage.

We are inclined to release the petitioner on bail only on the ground that he has spent about two years in custody and conclusion of trial will take some time.

Consequently, without expressing any views on the merits of the case and taking into consideration the custody period of the petitioner, this special leave petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing the bail bonds to the satisfaction of the Special Judge/ concerned Trial Court.

100. The quantities recovered from the petitioners are commercial in nature, they vary between 10 LSD blots to 50 LSD blots. In the case of Avtar Singh Digitally Signed By: DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date: 22.04.2025 16:11:43 there is recovery of 02 LSD blots which is an intermediate quantity.

Additionally, there is no incriminating material to show that Avtar Singh was the sender of the parcels. The KYC form given by the DTDC to the respondent agency has not been filed by the respondents. The alleged bitcoin transaction between Avtar Singh and Naveen Fogat are dated 22.08.2022 and 07.09.2022 whereas the alleged transaction is supposed to be dated 06.04.2023 (i.e. 6 -7 months post the bitcoin transaction).

101. In view of continued incarceration for almost 2 years and in view of the fact there is no reasonable chances of the trial concluding in the near future, I am inclined to allow the petitions and enlarge the petitioners on bail.

102. Since the petitioners are being granted bail on the principles of Article 21 of the Constitution, I am not commenting on the merits/demerits of the case, as it may prejudice the case of either of the parties.

103. From the judgments cited above, it is evident that there is no hard and fast formula as to what is the minimum period which is to be considered as substantial period undergone, however, keeping in view that the trial will take considerable time to conclude, the petitioners in:

Bail Petition 1863/2024 i.e. Pritesh Aggarwal, Bail Petition 3353/2024 i.e. Nishant Rawat, Bail Petition 4831/2024 i.e. Avtar Singh, Bail Petition 2409/2024 i.e. Arnav Dhankar, Bail Petition 1362/2024 i.e. Vaibhav Yadav.

are directed to be released on bail subject to the following terms and conditions:-

i. The petitioners shall furnish a personal bond in the sum of Rs 50,000 (Rupees fifty thousand only) each with 1 surety each in the like amount, to the satisfaction of the concerned trial court;

Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 ii. The petitioners shall not leave the country without the permission of the concerned court and if the petitioners have a passport, they shall surrender the same to the concerned trial court; iii. The petitioners shall furnish to the IO concerned their cell phone numbers on which the petitioners may be contacted at any time and shall ensure that the number is kept active and switched on at all times;

iv. The petitioners will furnish their permanent address to the concerned IO and in case they changes their address, they will inform the IO concerned;

v. The petitioners shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;

vi. The petitioners shall join investigation as and when directed by the concerned IO and will appear in Court as and when required; vii. The petitioners shall not communicate with, or come into contact with any of the prosecution witnesses, or tamper with the evidence of the case.

104. All the observations made herein above are only for the purpose of deciding these bail petitions and will have no effect on the merits of the case pending.

105. The petitions along with pending applications, if any, are disposed of.

Submission by the Petitioner in Bail Appln. 4498/2024 - Jithin Cherain

106. It is stated by the counsel for the petitioner that the conversations between the accused and the co-accused have no specific reference to the seized parcel or Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 substances and that there is nothing on record to show that the accused ordered, received or paid for the LSD blots in question. Additionally, nothing indicates that the it was not Lino Lalychan but the petitioner, who had received the parcel from Abhishek Anil, or that it was the petitioner not Lino Lalychan who had involvement with the said parcel.

107. It is stated there is no prima facie material to show that the petitioner was aware of the contents of the seized parcel (S. 35 NDPS Act), reliance is placed on Mohan Lal v. State of Rajasthan (2015) 6 SCC 222 and Union of India v. Mohd. Nawaz 2021 SCC OnLine SC 1237. There are also significant discrepancies in the weight of the substance, which was recovered, the weight of the substance sent

for sampling and the weight of the substance which was sampled. This is stated to be a critical contradiction suggesting alleged tampering with the substances sent to the CRC laboratory. Hence, it is stated that the report of the CRC laboratory should be disregarded.

108. It is also stated that Lino Lalychan has been made a witness by the NCB but neither Ganesh nor Joyel have been made either a witness or accused in the 3 chargesheets which have been filed so far by the NCB. It is stated that Lino Lalichan despite coming to receive the said parcel during NCB's investigation has not been made an accused. It is stated that the communications between persons unrelated to the petitioner should not be considered in relation to the petitioner. Reliance is placed on *Bharat Chaudhary v. Union of India*, 2021 SCC OnLine SC 1235.

109. It is stated that NCB has failed to produce any document to demonstrate that Jithin Cherian has made any payments to the Zambada Cartel or to any other person. It is also stated that statements under Section 67 NDPS are inadmissible as evidence, reliance for the same is placed on *Tofan Singh v. Tamil Nadu* (2021) 4 SCC 1. It is also stated that the statements made by the accused neither led to any recoveries pursuant to it nor any material objects. Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 Thus, it is stated that no part of statements of Abhishek Anil, Lino Lalychan or Jithin Cherian are admissible as evidence.

110. As per the Status Report it is stated that the person who called Abhishek had made the call from Mob. No. 8921209839 however the number with which Abhishek had chats over WhatsApp was different i.e. +91 9645745437. It is stated that the chats on social media which do not have corroborative prima facie evidence to show that such account belong to the accused and hence do not make out a case against the accused. Reliance is placed on *Jasbir Singh v. Narcotics Control Bureau*, 2023 SCC OnLine Del 134.

111. It is further stated that despite NDPS Act envisioning a system of controlled delivery to catch the actual recipients of parcels containing such substances under Section 50A read with 2 (viid), no such process was followed by the NCB. Reliance is placed on *Sagar v. State of Himachal Pradesh*, 2024 :

HHC: 7410, *Junaid Hussain Haveri vs. Union of India*, Criminal Petition Nos. 6853/2023.

Submissions by NCB in Bail Appln. 4498/2024 - Jithin Cherian

112. It is stated that the police issued notice under Section 67 NDPS Act on 20.04.2024 and 21.04.2024. On 21.04.2024 in continuation of his previous statement Abhishek Anil stated that Jithin had informed him that a person would come and fetch the LSD blots paper, call was received from Mob. No. 8921209839. Such person was Lino, Abhishek Anil had never met Lino before. On 22.04.2023 the NCB issued a notice under S. 67 NDPS Act to Jithin, thereby he stated that he had booked parcel AWB No. V87616631 in the name of Abhishek Anil and after receiving such parcel Abhishek Anil was to hand it over to petitioner. He further stated that the said parcel contained 500 LSD blots and Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing

Date:22.04.2025 16:11:43 after receiving the same he was going to hand it over to Ganesh, who is working in a café at Himachal. On 24.04.2023 the petitioner was arrested. On 24.04.2023, in his „voluntary statement petitioner deposed that his friend Joyal Joseph told him that if they provided a landing address for LSD blots he would give them a commission and there was no risk in booking it through the dark web.

113. It is alleged by the Investigating Agency that 500 LSD blots have been documented as evidence. It is alleged that the photographs of the said seized items and their packaging was taken, and the tracking details of the said parcel was verified. The LSD blots were then found to be of a commercial quantity thus warranting legal action under the NDPS Act.

114. It is further alleged that on the analysis of the data of the phone of the accused, various incriminating WhatsApp chats between Abhishek Anil and Jithin Cherian regarding delivery and receipt of the contraband parcels were recovered. Additionally, it is alleged that call detail records (CDRs) corroborated the physical movement and interaction between the accused and their associates.

115. It is also alleged by the Investigating Agency that the statements of the independent witnesses and the accused have been duly recorded under Section 67 of the NDPS Act, thereby corroborating the illicit activities and confirming the involvement of the accused.

116. Lastly it is stated by the Investigating Agency that the arrest of the accused person i.e. Jithin Cherian has been made in accordance with NDPS Act similarly the investigating has been conducted as per the legal procedures laid down in the Act.

Analysis for Petitioner in Bail Appln. 4498/2024 - Jithin Cherian Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

117. The team opened parcel bearing AWB No. V87616631, which was addressed to Abhishek Anil. When opened 500 blots of LSD weighing 8.34 grams, which is commercial quantity was recovered from the parcel. Notice was issued to Abhishek Anil u/s 67 NDPS Act. Abhishek Anil in his statement disclosed that the said parcel was ordered under the instructions of Jithin Cherian.

118. The investigating agency, NCB has recovered photographs of the seized articles and their packaging from the phone of the present petitioner. The same is shown below: -

119. This court at the stage of bail is required to see the corroborating evidence with the statements made under S.67 of the NDPS Act. The seized parcel was containing 500 LSD blots which was to be delivered to present petitioner through Abhishek Anil. There are incriminating chats between co-accused and the petitioner, the same are reproduced under: -

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120. Additionally, the call detail records show numerous calls from the phone of co-accused Abhishek Anil to the petitioner on 20.04.2023 i.e. on the date of Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 delivery of the parcel. There is also recovery of photographs of LSD blots and other contraband from the phone of the petitioner (as above).

121. The statement of Lino Lalychan has also been placed on record to show that the petitioner had sent him to collect the LSD blots. The petitioner in the present case had also asked the co-accused Abhishek Anil to count the LSD blots to ensure that they were 500 in number, and he had further directed to the send the same to Himachal Pradesh, through Lino Lalychan.

122. With regards to argument pertaining implication of Lino Lalychan as an accused, in the absence of material regarding the facts pertaining to him (Lino), this Court is unable to comment of whether the facts of any person linked with the petitioner are identical to that of the petitioner.

123. A perusal of the aforesaid chats clearly shows active conversation between Abhishek Anil (consignee) and the petitioner. The WhatsApp conversation is regarding the same very parcel which has been seized. To my mind, the same is incriminating in nature. Additionally, the statement of Lino Lalychan has also been recorded which shows that it was the petitioner who had sent Lino to collect the contents of the parcel.

124. Even though, the petitioner has spent about 2 years incarceration and some other petitioners in the present batch have been granted bail, in view of the primacy of Article 21 of the Constitution, I am not inclined to extend the same benefit to the petitioner.

125. In the present case, the 28 parcels have been recovered from DTDC couriers containing 807 LSD blots. The literature with regard to LSD has been documented in various articles, wherein it has been observed that LSD is an addictive and potent drug which can cause high dependency for its users. It is considered so potent that it is often diluted with other materials. Thus, it has a high potential for abuse and can lead to severe psychological and physical effects.

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126. The commercial quantity for LSD is 0.11 grams and recovered quantity is 8.7 grams. The parcel linked to the petitioner contained 500 blots which is more than 75 times of the beginning of the threshold of the commercial quantity. Such huge quantity of LSD blots coupled with the fact that the respondents are still identifying the bigger players and unearthing the entire racket involving multiple players and different layers of concealment, granting bail to the petitioner at this stage may severely hamper investigation to ascertain big operators of this cartel.

127. The recovery of 500 blots from the parcel linked with the petitioner shows the likelihood of the petitioner being a big handler of the narcotics. The bail granted to the 5 petitioners in the present batch, the maximum quantity recovered is of 50 blots.

128. The argument of controlled delivery is also not of much assistance to the petitioner. The procedure for controlled delivery as given under Section 50A NDPS to ascertain the actual recipient of the contraband, is procedural and directory in nature and is entirely the discretion of the Investigating Agency. The same is evident from the use of the word „may“ in Section 50A NDPS Act which reads as under: -

[50A. Power to undertake controlled delivery.--The Director General of Narcotics Control Bureau constituted under sub-section (3) of section 4 or any other officer authorised by him in this behalf, may, notwithstanding anything contained in this Act, undertake controlled delivery of any consignment to-- (a) any destination in India; (b) a foreign country, in consultation with the competent authority of such foreign country to which such consignment is destined, in such manner as may be prescribed.] Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43

129. Thus, I am not inclined to grant the benefit of bail to the present petitioner in Bail Petition 4498/2024 i.e. Jithin Cherian at this stage and this bail petition is dismissed.

130. The observations made herein shall not tantamount to an opinion formed on merits and de-merits of the case and are only for the purpose of deciding this bail petition.

Submissions by the Petitioner in Bail Appln. 64/2025 - Yash Gupta

131. On 19.04.2023 during the seizure procedure, parcel bearing number AWB Z136669459 (Parcel 1) was recovered. This parcel contained 50 LSD blots, and was addressed to the petitioner Yash Gupta with contact number 8489764233, residing at 202 Opal Building, Gem Powai Vihar Complex, Powai, Mumbai 400076.

132. It is submitted that the petitioner is being connected to Sarthak Shukla as the intermediary to order drugs whereas Sarthak Shukla has not been arrayed as an accused. The phones of both petitioner and Sarthak have been seized but nothing incriminating was found. It is also stated that the accused previously received another parcel bearing no. 1447629435 (Parcel 2).

133. It is submitted Parcel 1 bearing no. Z136669459 was never received by the petitioner and there is no proof that the petitioner had ordered the said parcel or there was any connection/communication of the petitioner with the other accused who allegedly have sent the parcel. Additionally, it is submitted that the courier receipt of Parcel 1 bearing no. Z136669459 does not bear the name of the Petitioner or other essential particulars such as „description of content“, weight, nature of consignment, value of goods etc. and the courier receipt of parcel 2 bearing no. 1447629435 does not state the address or phone number of the petitioner.

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134. The online tracking report does not state the name of the person who received the parcel. It is also submitted that the tracking report states the actual weight of the package on 11.04.2023 as 0.030 when it was booked in Delhi whereas the weight of the package when it was received in Mumbai courier facility on 13.04.2023 is 0.218. It is stated that this shows manipulation by the courier agency, and that 0.030 is not commercial quantity and bar of Section 37 will not apply.

135. It is submitted that the role of the courier company has not been investigated and an arbitrary pick and choose approach has been adopted by the Investigating Agency. Further, in all 28 parcels the detail of the sender is AASK & Associates 910 Vipul Business Park, 910, Badshahpur Sohna Rd. Hwy, Sector 48, Gurugram, Haryana. Ashish Sharma, partner of AASK has not been made an accused based on his statement that he has not sent the parcels. Similarly, the mobile number 9999665700, written as sender's number was found to be operated by Rohit who also has not been made an accused based on his statement. It is submitted that it is common knowledge that the courier sends SMSs to the given number when a parcel is booked. Where the sender denies having received the said messages, then the role of the courier company has to be investigated. When the sender's details could be wrong, then it is possible that the receiver's details are also wrong and written to disguise the actual recipient.

136. It is submitted that as per para 3 (xvii) of the complaint, AWB No. Z13669466 was addressed to Paritosh Mehta at his address of Goa and mobile number is written on the said parcel. From the said parcel 6.55 grams of cocaine was recovered. In his statement, he has admitted that the address and mobile number written on the parcel were correct but he did not order any drugs and has no knowledge of the drugs. The Investigating Agency has not made Paritosh Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 Mehta an accused even though his case is identical to the petitioner who had also given a similar statement.

137. Further, it is submitted that it has been alleged by the Investigating Agency against the accused that photos and psychotropic substances are found on the data extracted from the petitioner's phone. It is not the case of the respondent that the petitioner took these photos from his phone and the same were not downloaded from the internet. Mere possession of photos is not an offence under the NDPS Act. It is also stated that even the said photos are not of illegal drugs being sold by a drug peddler. These photos as submitted by the counsel of the petitioner are downloaded photos of legitimate drugs sold in America as the labels affixed on them with legal disclaimers are visible on some pictures.

138. Reliance for the above made submissions is placed on Phundreimayuni Yas Khan V State, Bail Appln 1383/2022, State vs Pallulabad, SLP (Crl No. 242/22, Abdul Rab v NCB - 2025:DHC:422 and Rakesh Kumar Raghuvashi v State - 2025 INSC 96.

Submissions by NCB in Bail Appln. 64/2025- Yash Gupta

139. On 19.04.2023 during the seizure procedure, parcel bearing number AWB Z136669459 was recovered. This parcel contained 50 LSD blots and it was addressed to accused Yash Gupta with

contact number 8489764233, residing at 202 Opal Building, Gem Powai Vihar Complex, Powai, Mumbai 400076.

140. It is alleged by the NCB that the accused had previously received another parcel bearing number 1447629435, which has also been sent by Zambada Cartel containing 50 LSD blots. Additionally, on 07.03.2024, accused in pursuance of notice u/s 67 NDPS Act deposed his involvement in the offense.

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141. It is also alleged that the accused has disclosed having contact with several local vendors in Mumbai engaged in illegal trafficking of Ganja and LSD. The contact details of these vendors were further disclosed by the accused from his mobile phone.

142. It is alleged by the NCB that the drugs have been recovered in the present case and various images of the contrabands have also been recovered from the petitioner's mobile phone. It is alleged that the details of the petitioner's mobile phone numbers have been retrieved from the phone of the co-accused. Additionally, several parcels which were addressed to the petitioner were found and the delivery status of those was shown as delivered which further indicated the petitioner's involvement and awareness of the narcotic drugs.

143. Lastly, it is stated by the NCB that the recovered contraband is a commercial quantity, reliance is placed on UOI v. Aharwa Deen - 200 VI SD (SC) 155, UOI v. Ram Samuj&Anr. - 1993 (3) CC Cases (SC) 22, UOI v. Thamisharasi& Ors. 1995 SCC (Crl.) 665 (SC) and the presumption under Section 37 and 54 of NDPS Act is against the accused, therefore he is not entitled to bail.

Analysis for Petitioner in Bail Appln. 64/2025 - Yash Gupta

144. The team opened parcel bearing number AWB No. Z13669459 which is alleged to have the recipient details as "Yash Gupta, 8489764233, 202 Opal Building, GEM Powai Vihar Complex, Powai, Mumbai, 400076". 50 LSD blots were recovered from inside the parcel weighing a total of 0.85 grams, which is commercial quantity. During investigation another courier bearing number AWB No. 144629435 was addressed to the present petitioner, but the contents of the said parcel are not known. The petitioner was then arrested on 01.04.2024 and has since been in custody.

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145. NCB recovered pictures of the seized contraband and various other narcotic drugs from the phone of the petitioner the same is reproduced under:

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146. Additionally, the courier receipts of both the seized parcel bearing no. AWB Z136669459 and 1447629435 bear only the name of the present petitioner, the same is reproduced under: -

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147. In the present case, the parcel is addressed in the name of the petitioner, the courier receipt bears the name of the petitioner, the mobile phone of the petitioner shows various images of contraband substance.

148. Additionally, the details of the of the petitioner s phone number have been found on the phone of the co-accused. Several parcels addressed to the petitioner have also been shown as delivered on the phone of the co-accused, Naveen Fogat. This further establishes the petitioner s involvement and his awareness about the contents of the parcel.

149. The petitioner has been in custody for a period of one year and to state that there is a delay in trial is premature. The respondent agency must be given reasonable time to conclude the trial and if the same is not concluded within a Digitally Signed By:DEEPANSHU BAIL APPLN. 1362/2024 & Conn. matters Signing Date:22.04.2025 16:11:43 reasonable period of time the petitioner will be at liberty to urge the grounds available under Article 21 subsequently. This court in the absence of the entire material regarding Paritosh Mehta s case is unable to comment whether his case is identical to that of the petitioner.

150. Lastly, the recovery made is of a commercial quantity, therefore the twin conditions given under S. 37 NDPS must be satisfied by the petitioner. At this stage, there are averments and documents to show that earlier couriers were received by the petitioner. Additionally, there are photographs of the LSD on the phone of the petitioner, in this view of the matter this court is unable to give a finding that the petitioner is not guilty of the offence as charged.

151. Thus, I am not inclined to enlarge the benefit of bail to the petitioner in Bail Petition 64/2025 i.e. Yash Gupta at this stage and this bail petition is dismissed.

152. The observations made herein shall not tantamount to an opinion formed on merits and de-merits of the case and are only for the purpose of deciding this bail petition.

JASMEET SINGH, J April 22, 2025 Kamun Digitally Signed By:DEEPANSHU BAIL APPLN.
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