

Regular Bail Application
State Vs. Aakash
FIR no. 255/2024
PS Civil Lines
U/s 21/29 NDPS Act & 78 JJ Act

20.02.2026

This is an application U/s 483 BNSS, 2023 seeking grant of regular bail to the applicant/ accused.

Present: Ms. Subhra Goyal, Ld. Subst. Addl. PP for State.
Mr. Deepak Ghai, Ld. Counsel for
applicant/accused.
IO ASI Arun Singh and SI Nitin Sharma are present
in person.

Reply to the bail application is already filed. Copy
already supplied.

At the outset, it is hereby clarified that earlier the
present regular bail application was filed but the
applicant/accused was admitted to interim bail subject to
outcome of *Mihir Rajesh Shah Vs. State of Maharashtra &
Anr., Crl. Appeal No. 2195/25, decided on 06.11.2025*. The
interim bail application was recalled vide order dt. 20.01.2026
and the applicant/accused was sent to JC and the regular bail
application was revived.

Today, the arguments have been heard on said
application.

Ld. Counsel for applicant/accused submits that the
applicant/accused has been falsely implicated in the present case
and the case property has been planted upon him. He further
argued that the prosecution story is vague and it is nowhere clear
about the the identity of applicant/accused. In support of his
submissions, he has taken the court through the disclosure

statement of accused Wilson Jacks, Neha @ Moti as well as seizure memo of case property recovered from the possession of applicant/accused.

He specifically pointed out that the accused Wilson Jacks did not disclose the parentage or address of applicant/accused and in addition to that the said accused also did not disclose that he used to take delivery of Smack from accused Sobhagya Halwan @ Rahul Judi i.e. the another co-accused.

He further argued that the disclosure statement of accused Wilson Jacks was recorded on 06.05.2024 and he was arrested on the same day and thereafter on his disclosure statement accused Neha @ Moti was arrested on 07.05.2024.

He further pointed out that **as per the disclosure statement of accused Neha @ Moti, the applicant/accused was given money to purchase Smack from accused Poonam W/o Jagdish R/o I-7, Aruna Nagar, Majnu Ka Tila.** However, as per the disclosure statement of accused Akash he procured the alleged 300 gram Smack from accused Neha @ Moti. Thus according to him, there is ambiguity regarding the case of prosecution that whether the applicant/accused was to purchase the Smack from Poonam or it was procured from accused Neha @ Moti.

He further argued that accused Wilson Jacks was arrested on 06.05.2024 and co-accused Neha @ Moti was arrested on 07.05.2024 and the applicant/accused was also arrested on 07.05.2024. According to him, as per case of prosecution itself, the police official namely ASI Arun had received secret information about the hiding of applicant/accused and Sanjay in the forest near Sanjay Akhara. According to Ld.

Counsel for applicant/accused, at that time the accused Neha @ Moti was also available with police staff at Majnu Ka Tila. According to him since police did not have any identification of accused Aakash, therefore, it is the accused Wilson or accused Neha who could identify the applicant/accused but the police went to the alleged spot without taking accused Wilson and Neha @ Moti with them and without compliance of Section 42 NDPS Act and apprehended the applicant/accused alongwith alleged 272 gram Smack.

In view of aforesaid, he argued that the alleged recovery of Smack is illegal as the police has not complied Section 42 NDPS Act even before and after the apprehension of applicant/accused and recovery of Smack.

In support of his submissions, he has relied upon the judgment titled as **Karnail Singh Vs. State of Haryana, Criminal Appeal No. 606/2004 decided on 29.07.2009 by Hon'ble Supreme Court of India.**

He further argued that the applicant/accused is not connected with other accused with any call connectivity or monetary transactions. Therefore, he request to admit the applicant/accused on bail.

In view of aforesaid submissions, he has relied upon the judgment titled as **Nagesh Sharma Vs. The State (NCT of Delhi), Bail Appln. 3185/2022 decided on 28.03.2023 by Hon'ble Delhi High Court.**

Per contra, Ld. Addl. PP for the state as well as IOs have vehemently opposed the bail application stating that since there were chances of escaping the applicant/accused, therefore, due information regarding the secret information was given to the

SHO concerned and the SHO concerned gave directions to conduct the raid team and the applicant/accused was apprehended with 272 gram Smack which is commercial in nature, therefore, Section 37 NDPS Act is applicable.

They further argued that the applicant/accused himself had disclosed that he procured the Smack from co-accused Neha @ Moti.

IOs further submit that after apprehension of applicant/accused and recovery of 272 gram Smack, the ACP concerned had reached the spot for compliance of Section 50 NDPS Act. According to them, relevant provisions under 50 NDPS Act were duly complied. Therefore, they request to dismiss the bail application.

Submissions considered. Record perused.

It is the case of Ld. Counsel on behalf of applicant/accused that the police did not know about the identity of applicant/accused but they have arrested the present accused only without any identification. In support of his submissions, he has drawn attention of this court on the disclosure statement of accused Wilson Jacks and Neha @ Moti. After going through their aforesaid statements, it is observed that the said accused persons only disclose the name of accused as Aakash, his parentage as well as address were not disclosed. The police has nowhere explained as to how they identified that the present Aakash is the said Aakash only whose name was disclosed by accused Wilson Jacks and Neha @ Moti. It is also observed that when the police received secret information about the hiding of applicant/accused, then the accused Neha @ Moti was in their custody at Police Post Majnu Ka Tila but then also she was not

taken by the police to the spot where the applicant/accused was hiding to identify him. Therefore, this fact is prima facie doubtful as to how the present Aakash is only identified as accused Aakash. Further, the recovery was made from accused Wilson Jacks and Neha @ Moti at different places. Admittedly, the police had received secret information about the accused and thereafter he was arrested with alleged 272 gram Smack from different place. Therefore, prima facie, the police was supposed to reduce the said information in writing as per Section 42 NDPS Act but as per record, no such compliance has been made.

In support of his submissions, Ld. Counsel for applicant/accused has relied upon the judgment **Karnail Singh Vs. State of Haryana (supra)**. As per the facts of the case, the present case is not for delay of compliance U/s 42 NDPS Act rather it is a case of totally non-compliance of Section 42 NDPS Act.

In view of aforesaid facts and circumstances, the applicant/accused has prima facie created doubts on the version of prosecution regarding his identity as well as regarding the recovery of alleged 272 gram Smack from his possession. The investigation is already complete and the charge-sheet has already been filed. Therefore, in the considered opinion of this court, no fruitful purpose will be served by keeping the applicant/accused in JC. Hence, the applicant/ accused **Aakash** is admitted to bail on furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount and subject to condition that :-

- (i) That applicant/ accused shall not, directly or indirectly, make any inducement, threat or promise to the complainant or any person acquainted with the facts of the case so as to dissuade him

from disclosing such facts to the Court or to any police officer;

(ii) That applicant/ accused shall upon his release provide his mobile number to the IO/ SHO and keep his such mobile 'Switch On' at all times.

(iii) That applicant/ accused shall intimate to the IO/ SHO about any change in his mobile number or address;

(iv) The applicant/ accused will not influence the witnesses nor tamper with any evidence;

(v) That applicant/ accused shall not leave the country without permission of the Court;

(vi) That applicant/ accused shall appear on each and every date of hearing before the Court.

Application stands **disposed of** accordingly.

The observations made on the merits of the case are purely for the purposes of deciding the present bail application and shall not be construed as expression upon the merits of the case.

Copy of the order be given dasti to the IO as well as to the Ld. Counsel for applicant/ accused and be communicated to the applicant/ accused through Jail Superintendent for information.

(Virender Singh)
Special Judge, NDPS,
Central,THC, Delhi/20.02.2026