

Regular Bail Application
State Vs. Neha @ Moti, FIR No. 255/24
PS Civil Lines, U/s 21/29 NDPS Act & 78 JJ Act

11.03.2026

Present: Sh. K. P. Singh, Ld. Addl. PP for State.
None for applicant/ accused.

On 10.03.2026, Ld. counsel for applicant/ accused, Ld. Addl. PP for the state as well as IO had argued that “Ld. counsel for the applicant/ accused submits that as per the case of prosecution, initially, accused Wilson Jacks and one ‘CCL’ were apprehended. In the disclosure statement of accused Wilson Jacks it had came out that he allegedly received recovered Heroin from the applicant/ accused.

Thereafter, on 07.05.2024, applicant/ accused was apprehended on the pointing out of accused Wilson Jacks.

He further argues that in disclosure statement, accused Wilson Jacks had *inter alia* disclosed to the effect that applicant/ accused is residing at two houses, one in Wazirabad and another in Hardev Nagar and he can point out her houses and also can get recover the Smack.

He further argues that thereafter, police had recorded GD No. 01 dated 07.05.2024 in compliance of Section 42 of NDPS Act.

He further argues that as per law, police official, who firstly received the secret information is supposed to give information of secret information to his immediate. Thereafter, the Superior Officer shall forward the same to his Senior Officers.

He has drawn attention of this Court on the aforesaid

GD number and pointed out that the said alleged compliance of Section 42 of NDPS Act has not been done as GD no. 01 dated 07.05.2024 does not bear any signature or forwarding by the SHO concerned. He also submits that the said GD number is not even endorsed by ACP concerned.

In view of abovesaid, he submits that the police has not complied Section 42 of NDPS Act.

He further argues that allegedly, before searching the houses of the applicant/ accused, IO had obtained search warrants qua the houses of the applicant/ accused.

He has taken the Court to the alleged search warrants and pointed out that no house number of the houses of the applicant/ accused Neha @ Moti has been mentioned in the search warrants. He further pointed out that IO has annexed the copy of DD Entry Register of ACP concerned with the charge-sheet and as per the entries dated 07.05.2024, there is not entry to the effect that any application was received by the ACP concerned to issue any search warrants qua the houses of the applicant/ accused. He also stressed on the point that it is also not mentioned that any search warrant was issued qua the search of the houses of the applicant/ accused on 07.05.2024. He also pointed out that even the application allegedly moved by the IO for seeking search warrants is not forwarded by the SHO concerned.

He also stressed on the point that the alleged search warrants also does not bear the FIR number or any DD number pertaining to the present case.

Thus, according to him, the aforesaid application and search warrants are manipulated and thus, are taken after

completion of the alleged proceedings only.

He further argues that as per language of search warrants and as per law itself, IO was supposed to give report to the ACP concerned as to what done by him in compliance of search warrant of houses of the applicant/ accused but no such report has ever been submitted by the IO before concerned ACP. He further argues that allegedly, after taking search of the houses of the applicant/ accused Neha @ Moti situated at Wazirabad, the applicant/ accused was taken to her alleged house situated at Hardev Nagar.

He has taken the Court through the brief facts of the case and has contended that in the entire brief facts, police has not described as to how the alleged house of the applicant/ accused was opened. He further argues that the police has not mentioned that the applicant/ accused was having any key of that house or it was opened by using that key. According to him, thus, the said place was open and several other persons were residing at the said place.

He further argues that as per the brief facts, the Smack was found placed in one polythene bu the applicant/ accused has never disclosed that she can get recover any smack from said houses. According to him, she has also not pointed out towards that polythene that the said polythene was containing any Smack. Thus, according to him, alleged Smack is also not recovered at the instance of the applicant/ accused.

He further argues that the police has not taken any Rent Agreement of the landlord to the effect that the applicant/ accused had only taken the said premises on rent. He further submits that the police even did not record any statement of

landlord or or any other neighbours residing in the vicinity to the effect that applicant/ accused was residing inside the house or not.

Thus, according to him, police has not connected the applicant/ accused in any manner with the alleged house from where the alleged recovery of Smack has been effect.

He further argues that as per the entry in Register no. 19, case property was deposited in Malkhana on 06.05.2024. Thereafter, it was allegedly taken to the Court for proceedings U/s 52A of NDPS Act on 16.05.2024.

He further argues that after completion of proceedings U/s 52A of NDPS Act, police was supposed to re-deposit the case property in Malkhana but there is no such entry in Register no. 19 of 16.05.2024 or thereafter regarding re-deposition of case property in Malkhana. According to him, suddenly on 28.05.2024, case property was sent to FSL. It means, according to him, case property remained in the custody of IO itself and chain of custody of case property has been compromised.

He further argues that the police did not make any videography or photography of alleged recovery from the alleged premises of the applicant/ accused. Thus, according to him, chance of planting the case property upon the applicant/ accused are not ruled out.

In support of his submissions, he relied upon *Nagesh Sharma Vs. The State (NCT of Delhi), Bail Appln. 3185/2022, decided on 28.03.2023; Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), Special Leave Petition (Crl.) No. 915/2023, decided on 28.03.2023 & Prince Kapoor Vs. State of NCT of*

Delhi, Bail Appln. 3691/2024 & Crl. M.A. 30694/2024, decided on 14.01.2025.

Per contra, Ld. Addl. PP for the State as well as IO have vehemently opposed the bail application of the applicant/ accused stating that initially, accused Wilson Jacks and one 'CCL' were apprehended and 21.3 gram Heroin was recovered from the possession of accused Wilson Jacks and 8.8 gram Heroin was recovered from the possession of 'CCL' on 06.05.2024. Thereafter, on 07.05.2024, at the instance of accused Wilson Jacks, applicant/ accused was arrested. According to them, 272 gram Heroin has been recovered from the house of the applicant/ accused. They further argue that the applicant/ accused had disclosed in her statement that she is also residing at some other house situated at Hardev Nagar. According to them, the said house of the applicant/ accused was searched after search warrants and 272 gram Heroin was recovered from that house. Thus, according to them, said quantity is commercial and therefore, Section 37 of NDPS Act is applicable.

They further argue that the said house was in exclusive possession of the applicant/ accused. Police tried to trace out the landlord but he could not be traced out, therefore, statement of landlord could not be recorded.

They further submit that the lacunae, if any, in proceedings qua Section 42 NDPS Act and proceedings U/s 52A of NDPS Act do not entitle applicant/ accused to be admitted to bail.

In support of their submissions, they relied upon *NCB Vs. Kashif, Crl. Appeal No. 5544/2024, decided on 20.12.2024; Bharat Ambale Vs. Chhatisgarh, Crl. Appeal No.*

250 of 2025, decided on 06.01.2025 & State Vs. Akash/Seema/Shilpa, CrI. M.C. 7914/24, 7927/24 & 7984/24 of Hon'ble High Court of Delhi.

They further submit that the applicant/ accused is also involved in another case under NDPS Act, therefore, second condition as provided U/s 37 of NDPS Act that there are chances that the accused will not indulge in similar case is not satisfied.

They further submit that the applicant/ accused was admitted to interim bail subject to outcome of *Mihir Rajesh Shah Vs. State of Maharashtra & Anr.(supra)* and thereafter, interim bail of the applicant/ accused was cancelled and she was directed to surrender but she did not surrender. Therefore, according to them, conduct of the applicant/ accused is also not satisfactory. They further submit that since the commercial quantity of Heroin was recovered, therefore, bail application should be dismissed.

In rebuttal, Ld. counsel for the applicant/ accused submits that the disclosure statement of the applicant/ accused was recorded after the alleged recovery of 272 gram Heroin from her alleged second house. According to them, she only disclosed that the Heroin or something else has been put by her in her second house and she can get recover the same. Therefore, according to him, recovery from the second house does not fall within the ambit of Section 27 of Indian Evidence Act.

He further argues that he has not argued about the proceedings U/s 52A of NDPS Act, however, according to him, he has pointed out that the case property was not re-deposited in Malkhana and it remained in the custody of the IO.

He further submits that the judgment relied upon by the Ld. Addl. PP for the state are not applicable.

Submissions considered. Record perused.

Though, as per the case of prosecution, after recording disclosure statement of co-accused Wilson Jacks, provisions of Section 42 of NDPS Act were complied qua secret information received qua applicant/ accused but as per record, the GD no. 01 dated 07.05.2024 does not bear signature of immediate Superior Police Official of ASI Arun Singh. It also does not bear any endorsement of ACP concerned. Thus, prima facie, there is lacunae in the said compliance.

Further, as per the disclosure statement of applicant/ accused, she has not disclosed that she can get recovered any Heroin from her premises. It is also observed that the search warrants does not bear any FIR number of GD number as well as the address of houses of the applicant/ accused.

It is also observed that admittedly, the police has not collected any Rent Agreement or recorded any statement of landlord to the effect that the house from where the Smack has been recovered was taken on rent by the applicant/ accused only. From the brief facts, it is also not revealed as to how the house from where Smack was recovered was opened.

Further, it is observed that as per Register no. 19, case property was not re-deposited in Malkhana after proceedings U/s 52A of the NDPS Act. However, later on, it was sent to FSL on 28.05.2024.

Though, commercial quantity of Heroin was allegedly recovered at the instance of the applicant/ accused but as above mentioned, there are various lacunae in the investigation. Further, though, the accused/ applicant did not surrender in time after cancellation of her interim bail but at the

same time, in the considered opinion of this Court, Court has to see as to what evidence is available against the accused. Considering the aforesaid lacunae in the investigation, applicant/ accused has prima facie created serious doubt on the case of prosecution. In the presence of aforesaid lacunae, prima facie, accused/ applicant has satisfied the twin conditions as provided U/s 37 of NDPS Act and in the considered opinion of this Court, no fruitful purpose would be served by further keeping the applicant/ accused in JC.

In the overall facts and circumstances of the case, bail application of the applicant/ accused is allowed and applicant/ accused **Neha @ Moti** 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 her from disclosing such facts to the Court or to any police officer;
- (ii) That applicant/ accused shall upon her release provide her mobile number to the IO/ SHO and keep her such mobile 'Switch On' at all times.
- (iii) That applicant/ accused shall intimate to the IO/ SHO about any change in her 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/10.03.2026