

IA 3/25 SC 75/23
NCB VS RISHABH TANDON

04.10.2025

ORDER

1. Vide this order I shall dispose off the 2nd bail application u/s. 483 BNSS, 2023 moved on behalf of accused / applicant Rishabh Tandon for grant of regular bail. Reply filed by the IO and the same has been perused carefully.

2. It is submitted by Ld. Counsel for the applicant/accused that there is no other bail application preferred by the present applicant/accused which is pending disposal before the Hon'ble Supreme Court of India, before the Hon'ble High Court of Delhi, or any other Court in the present case FIR.

3. It is submitted by Ld. Counsel for applicant/accused that accused/applicant is in JC since 02.09.2022. The present applicant/accused has been falsely implicated in the present case after 13 months of the date of the initial recovery on 26.07.2021. The complaint was filed before this Court after a considerable delay on 27.02.2023. The applicant has been in custody for over 03 years and till date only 04 witnesses have been examined and the trial is going to take a long time to conclude.

4. It is submitted by Ld. Counsel for applicant/accused that initially the present application was filed, it was merely mentioned that the present application is the second application filed by the applicant/accused, however, the details of the earlier dismissed applications; the grounds of dismissal; and the change

of circumstances were not mentioned. Thereafter, on 27.08.2025, the applicant/accused filed the additional grounds containing the change of circumstances since the last dismissal of his bail application by Hon'ble High Court of Delhi on 13.11.2024.

5. It is submitted by Ld. Counsel for applicant/accused that the first application moved by the applicant/accused was dismissed by this Court vide order dated 09.04.2024. Thereafter, his application was dismissed by Hon'ble High Court of Delhi vide detailed order dated 13.11.2024. Since, the dismissal of the said bail application on merits, there has been a material change that PW2 Anupam Kumar and IO PW3 Harender Dagar have been examined, cross examined discharged and material discrepancies in their testimonies have been brought forth. Furthermore, there is a doubt created on the veracity of the proceedings u/s 52A NDPS Act, since the said proceedings conducted before the Ld. MM is not in line with what PW3 IO Harender Dagar had deposed. Furthermore, applicant/accused has remained in custody for a period of over 10 months, since the date of said order.

6. It is submitted by Ld. Counsel for applicant/accused that he is ready to abide with any condition that this court may impose upon him, if the present application is allowed and he is enlarged on regular bail.

7. Per contra, it is submitted by the Ld. SPP for NCB duly assisted by the IO that till date two public witnesses have been

examined i.e. PW1 Rajesh Gupta and PW2 Anupam Kumar and they have both supported the case of prosecution and duly implicated the applicant/accused. Furthermore, all the grounds on merits, which the applicant/accused has raised in the present application were duly dealt with by the Hon'ble High Court of Delhi. There are no material changes in the circumstances. Furthermore, there are four other material public witnesses which are yet to be examined, therefore, the State is strongly opposing the present application.

8. The change in circumstances for the purpose of granting bail are to be seen in the light of the law laid down by the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India in this regard. The Hon'ble Supreme Court of India in the case of ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 SC 2292***, has held that successive bail applications can be entertained by the court when substantial case is established by the accused, which would entitle him for getting bail in successive bail application. The court should not pass the order of releasing him on bail in successive bail application merely establishing some cosmetic change during the period between two applications which would entitle the accused for bail. In ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr., (2005) 2 SCC 42***, Hon'ble Supreme Court of India observed as under :

“This court also observed that though the accused has a right to make a successive application for grant of bail, the court entertaining such subsequent bail applications

has duty to consider the reason and grounds on which the earlier bail applications were rejected and in such cases, the court also has a duty to record what are the fresh grounds which persuaded it to take a view different from one taken in earlier application.”

9. In *Kalyan Chandra Sarkar* case (Supra), it was also held by the Hon'ble Supreme Court that successive bail applications cannot be entertained only on the ground that the accused is in custody for a longer period.

10. In the present case, the first bail application of the accused/applicant was dismissed by this Court on 09.04.2024 and thereafter by the Hon'ble High Court of Delhi vide detailed order dated 13.11.2024, in which all the grounds including the discrepancies in the 52A proceedings and other grounds were discussed and rejected by the Hon'ble High Court of Delhi. All the public witnesses examined before this Court so far have fully supported the case of the prosecution and they have identified the applicant/accused as one of the main accused in the present case. There are four other public witnesses namely Priyanka, Mustafa Raza, Viraj and Sushil Kumar, that are remaining to be examined.

11. If the law laid down in the above said judgments is applied to the facts of the present case, it is clear that there is no

substantial change in circumstances for the purpose of grant of bail to the accused/applicant, only on the ground that he had spent more time in custody. Furthermore, in light of statutory presumption and the stringent conditions imposed u/s 37 of the NDPS Act, no ground for grant of regular bail is made out.

12. In view of the discussions in the preceding paragraphs, this Court is not inclined to grant regular bail to the applicant/accused at this stage. The present application stands disposed off accordingly.

13. Needless to say nothing expressed herein shall have any bearing on the merits of the case.

14. Application is disposed off accordingly.

15. The coversheet in compliance of the practice directions no. 124/Rules/DHC dated 10.12.2024, containing the directions passed by the Hon'ble Supreme Court of India in "***Suhas Chakma Vs. Union of India & Ors.***", Neutral Citation 2024 INSC 813 is issued separately.

16. A copy of this order be given *dasti* to all concerned parties.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
04.10.2025