

IA 11/2026 SC 167/2025

FIR No. 04/2025

PS: Special Cell

U/s 18/29 NDPS Act r/w Sections 336(3) & 340(2) BNS

State v. Kailash & Ors.

08.06.2026

Present: Sh. A.B Asthana, Ld. Addl. PP for the State.

Sh. Surya Pratap Singh, Ld. counsel for
applicant/accused Kailash.

Vide my separate order of even date, the present application, seeking grant of interim bail stands partly allowed.

The application stands disposed of accordingly. Copy of this order be given *dasti*. Copy of this order be sent to Jail Superintendent, Tihar Jail for necessary intimation to the applicant/accused.

(Jitendra Pratap Singh)
ASJ/Spl. Judge, NDPS/N Delhi
08.06.2026/p

**IN THE COURT OF JITENDRA PRATAP SINGH
ADDL. SESSIONS JUDGE /SPECIAL JUDGE (NDPS),
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

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ORDER

1. Vide this order, I shall dispose of the first application moved on behalf of applicant/accused Kailash under Section 483 BNSS seeking interim bail on humanitarian/medical grounds.

2. It is submitted by Ld counsel for applicant/accused that there is no other application seeking similar relief is pending before the Hon'ble Supreme Court of India, Hon'ble High Court of Delhi or any other court.

3. The applicant is facing prosecution in FIR No. 04/2025, PS Special Cell, for offences punishable under Sections 18/29 of the NDPS Act read with Sections 336(3) and 340(2) BNS. The applicant is stated to be in judicial custody since 01.01.2025. The present application has been moved seeking interim bail on the ground that the mother of the applicant, namely Chandna, aged about 68 years, is suffering from serious cardiac ailments and requires medical assistance, hospitalisation and possible procedure/surgical intervention.

4. It has been submitted by Ld. Counsel for the applicant that the father of the applicant has already expired and the mother of the applicant is a widow. It is further submitted that the applicant has only one brother, namely Anada Ram, who is also an accused in the present case and is presently in judicial custody. It is submitted that in these circumstances, there is no responsible male member available in the family to take care of the aged mother of the applicant, to take her to the hospital, to arrange her treatment and to provide assistance during hospitalisation and follow-up.

5. Ld. Counsel has further submitted that the mother of the applicant was taken to Mathura Das Mathur Government Hospital, Jodhpur, where she was examined in relation to cardiac complaints and was advised further cardiac evaluation. It is submitted that the Troponin test was found positive and, therefore, the applicant's mother requires urgent attention and assistance. It is further submitted that the hospital is situated at a considerable distance from the residence of the mother and she cannot be expected to manage her treatment alone at this age and in such medical condition.

6. It has also been submitted that the interim bail is being sought only on humanitarian grounds and not on merits. It is argued that the applicant is not seeking regular bail through the present application and that he undertakes to surrender immediately upon expiry of the interim bail period. Ld. Counsel

has further submitted that the Court may impose any strict condition to ensure the return of the applicant to custody.

7. Per contra, Ld. Substitute Addl. PP for the State has opposed the application. It is submitted that the allegations against the applicant are grave. As per the prosecution, on 31.12.2024, on the basis of secret information, a raiding team apprehended two persons near Ring Road opposite Sarai Kale Khan, New Delhi. It is alleged that from the shoulder bag of co-accused Ajay @ Hanuman, 2.994 kg opium was recovered and from the shoulder bag of the present applicant Kailash, 3.300 kg opium was recovered. It is further submitted that during investigation, recoveries were also effected from co-accused Anada Ram and Vinod Yadav and the matter concerns an organised chain of procurement and transportation of opium. It is further submitted that the FSL result has confirmed that the exhibits were opium containing morphine.

8. Ld. Substitute Addl. PP for the State has further submitted that the charge-sheet has already been filed and supplementary charge-sheet has also been filed. It is argued that the applicant is involved in a serious offence under the NDPS Act involving commercial quantity and, therefore, the rigours of Section 37 of the NDPS Act are attracted.

9. The prosecution has also opposed the application on the ground that the medical documents relied upon by the applicant could not be fully verified in his favour. It is submitted that due

to paucity of time, the authenticity of the documents was verified through online sources and by contacting the doctor concerned. It is further submitted that Dr. Pratima Chauhan, who allegedly examined the mother of the applicant, informed that the patient had come to her home clinic on 21.05.2026 with body ache and that there was no complaint of chest pain at that time. It is also submitted that the OPD slip and investigation request form of Mathura Das Mathur Hospital mention Registration No. 32850; however, as per the hospital register, the said registration number was allotted to another person, namely Bhuvnesh, aged about 32 years, on 03.05.2026. On this basis, it is argued that the documents relied upon by the applicant are doubtful and the application deserves dismissal.

10. I have heard the rival submissions and have perused the record.

11. At the outset, it is necessary to clarify that the present application is not an application for regular bail on merits. The applicant is seeking interim bail for a limited period on the ground of illness of his aged mother. Therefore, while the seriousness of the offence and the rigour of Section 37 of the NDPS Act remain relevant considerations, the present request is required to be examined on a limited humanitarian footing.

12. There is no doubt that the allegations against the applicant are serious. The prosecution case is that 3.300 kg opium was recovered from the applicant and that further recoveries were

effected from other co-accused persons. The offence alleged is grave and involves commercial quantity. Ordinarily, in such matters, the Court is required to exercise great caution before granting liberty to an accused.

13. However, even in serious offences, the Court is not powerless to grant limited interim relief where a genuine humanitarian circumstance is shown and where such relief can be protected by strict conditions. Interim bail on the ground of illness of a close family member is not a declaration on the merits of the case. It is only a temporary release to enable the accused to perform essential family obligations in compelling circumstances.

14. In the present case, the applicant has pleaded that his mother is 68 years old, widowed and suffering from cardiac ailments. The father of the applicant is stated to have expired. It is further not seriously disputed that the applicant's brother Anada Ram is also in judicial custody in the present case. Thus, the plea of the applicant that both sons are in custody and that the aged mother may require assistance during medical treatment cannot be rejected outright.

15. The prosecution has raised a serious objection regarding the medical documents filed by the applicant. The said objection cannot be ignored. The prosecution has pointed out that the registration number mentioned in the hospital papers allegedly does not tally with the hospital record and that the doctor

contacted by the IO gave a version which, according to the prosecution, does not fully support the case of the applicant regarding chest pain on 21.05.2026. The Ld. Counsel for the applicant has clarified that apparently the hospital has mentioned the name of the attendant against registration no. 32850 instead of the mother of the applicant. That even otherwise, it is not disputed that other medical documents are proper and genuine.

16. Be that as it may, at the present stage, the Court is not conducting a detailed enquiry into the genuineness of each medical document. The limited question is whether a short interim release can be granted on humanitarian grounds while safeguarding the interest of the prosecution. The Court is also mindful that the relief sought in the application is for 08 weeks. However, considering the nature of objections raised by the prosecution and the seriousness of the case, this Court is not inclined to grant interim bail for such a long period.

17. At the same time, the Court is of the view that a short release for 10 days would be sufficient to enable the applicant to visit his aged mother, arrange her immediate medical consultation/treatment and make necessary family arrangements. Such limited relief would also balance the humanitarian aspect with the concern expressed by the prosecution.

18. The objection of the prosecution regarding discrepancy in the medical papers shall remain open. The applicant shall be required to place on record, after surrender, the medical

documents/treatment papers of his mother for the period of interim bail. It is also clarified that if the prosecution subsequently finds that false or fabricated medical documents were used for seeking interim bail, it shall be at liberty to move an appropriate application in accordance with law.

19. In view of the aforesaid facts and circumstances, this Court is inclined to allow the application partly.

20. Accordingly, the application is partly allowed. Applicant/accused Kailash is admitted to interim bail for a period of 10 days from the date of his actual release, subject to furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the of the Court/ Ld. Link Court/ Ld. Duty Judge, and subject to the following conditions:

- i. The applicant shall be released on interim bail for a period of 10 days only from the date of his actual release.
- ii. The applicant shall surrender before the concerned Jail Superintendent immediately upon expiry of 10 days from the date of his actual release.
- iii. The applicant shall furnish his mobile number to the IO and shall keep the same operational at all times during the period of interim bail.
- iv. The applicant shall share his live mobile location with the IO, if so directed by the IO.

- v. The applicant shall be permitted to travel to Jodhpur, Rajasthan, only for the purpose of attending to the medical needs of his mother and for no other purpose.
- vi. Before leaving Delhi, the applicant shall inform the IO in writing/through WhatsApp about the date and time of departure, mode of travel, place of stay in Rajasthan and expected date of return.
- vii. The applicant shall not visit any place other than the place of residence of his mother, hospital/clinic concerned and such other place as may be necessary for her medical treatment.
- viii. The applicant shall not contact, threaten, induce or influence any witness or any person acquainted with the facts of the case.
- ix. The applicant shall not contact any co-accused except his brother Anada Ram if any jail/legal formality requires the same, and shall not make any attempt to influence the investigation or trial.
- x. The applicant shall not tamper with evidence or indulge in any offence during the period of interim bail.
- xi. The applicant shall place on record, at the time of surrender or on the next date fixed before this Court, copies of the medical papers/treatment record of his mother pertaining to the period of interim bail.
- xii. The applicant shall also file a short affidavit at the time of surrender disclosing the places visited by him during the period of interim bail.
- xiii. In case of violation of any of the above conditions, the interim bail granted to the applicant shall be liable to be

cancelled and the prosecution shall be at liberty to take appropriate steps in accordance with law.

21. It is clarified that this order shall not be treated as an expression on the merits of the case. The observations made herein are only for the purpose of deciding the present application seeking interim bail on humanitarian/medical grounds.

22. The application under Section 483 BNSS, 2023 moved on behalf of applicant/accused for grant of interim bail is accordingly disposed of as allowed.

23. Copy of this order be given dasti to both sides and also be sent to Jail Superintendent concerned for information and compliance.

(Jitendra Pratap Singh)
ASJ/Spl. Judge, NDPS/N Delhi
08.06.2026/p