

**IA No. 12/26 SC No. 314/2022**  
**NCB v. Hoti Lal**  
**Crime VIII/07/DZU/2022**  
**Under Sections 8/21/23/29 NDPS Act**

**11.04.2026**

Present: Sh. Harssh, Ld proxy counsel on behalf of Sh.  
Mukeysh Malik, Ld. SPP for NCB.  
Sh. Pushpendra Kumar Dhaka, Ld. counsel for  
applicant/accused.

Vide my separate order of even date, the application  
filed on behalf of the applicant/accused Hoti Lal, seeking grant of  
regular bail, is dismissed and disposed of accordingly.

Copy of the order be given *dasti* as well as be sent to  
jail superintendent for supplying the same to accused in jail.

**(Jitendra Pratap Singh)**  
**ASJ NDPS Act**  
**(Special Judge)/PHC**  
**NDD/11.04.2026**

**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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**11.04.2026**

**ORDER**

1. Vide this order, I shall decide the sixth bail application moved on behalf of applicant/accused Hotilal Pandey under Section 483 BNSS for grant of regular bail in the present case. The applicant is in custody since 21.01.2022.

2. It is submitted by Ld. Counsel for applicant/accused and affirmed by the IO 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. The case of the prosecution, in brief, is that on 19.01.2022, during controlled delivery proceedings authorized by NCB, a parcel bearing Airway Bill No. IZ0559A50466482570 was intercepted at UPS Express Pvt. Ltd., DCSC Cargo Terminal, IGI Airport, New Delhi and on search thereof, 760 grams of heroin was allegedly recovered. The parcel is stated to have been sent from Dubai and the receiver's name and address were mentioned as Hoti Lal Pandey, House No. N-36, Shree Radha Florence,

Vrindavan, Mathura, Uttar Pradesh. After seizure of the contraband, a dummy parcel was prepared and the controlled delivery operation was conducted at the said address. On 21.01.2022, the dummy parcel was allegedly received by the present applicant at his said address. Thereafter, search of his premises was also conducted and certain articles including photocopy of invoice of an airway bill, passport, PAN card, one UPS packing polythene and one Lenovo laptop were recovered. The applicant made a statement under Section 67 NDPS Act and disclosed his role in receiving parcels sent by one Martin Gary and handing them over to one Peterson Zumba in Delhi. It is further the prosecution case that on the basis of subsequent disclosure of the applicant, co-accused Louis Sunna Uzoma @ Peterson Zumba was apprehended near Fortis Hospital, Vasant Kunj on 22.01.2022 and thereafter, on the basis of his disclosure, 830 grams of heroin was recovered on 24.01.2022 from his house at Sant Nagar, Burari, Delhi. The prosecution also relies upon the CDR and WhatsApp connection between the applicant and the co-accused and claims that the applicant had earlier also received three parcels connected with the same network.

4. Learned counsel for the applicant has argued that the applicant is a 73-year-old retired bank officer with an unblemished past and no criminal antecedents. It has been submitted that he has remained in custody for more than four years and the delay in conclusion of trial is not attributable to him. It has further been argued that the parcel containing contraband had already been seized and deposited in malkhana

and only a dummy parcel was delivered to the applicant, therefore no contraband was ever recovered from his possession. Learned counsel has submitted that material contradictions have emerged from the testimonies of PW-3 Mr. Manoj Kumar and PW-6 IO Sachin Kumar, including absence of public witnesses, absence of inventory, photographs or videography, mismatch in airway bill details, lack of CCTV footage, non-examination of the courier representative, absence of contemporaneous written record regarding the alleged meeting with the co-accused, absence of case diary and departure entries and infirmities regarding mobile chats and the alleged role of co-accused. It has also been argued that the statement under Section 67 NDPS Act cannot be treated as substantive confession and that the prosecution case is rendered doubtful. Learned counsel has also placed reliance upon the fact that PW-7 Mr. Mangat Ram and PW-8 Mr. Mohit Kumar have turned hostile and submits that the applicant is entitled to parity with co-accused who has already been granted bail.

5. Per contra, learned Special Public Prosecutor for NCB has opposed the application and submitted that this is a successive bail application and the earlier applications of the applicant were dismissed by this Court, the Hon'ble High Court and the Hon'ble Supreme Court. It is submitted that the Hon'ble Supreme Court, while declining bail, only granted liberty to revive the prayer in case trial was not concluded for no fault attributable to the applicant and later even extended the time for conclusion of trial by six months. It is argued that the present case involves

commercial quantity and therefore the rigours of Section 37 NDPS Act are fully attracted. It is further submitted that the applicant personally received the dummy parcel addressed in his own name at his own address. That his own statement and the statement of co-accused disclose the conspiracy. That the subsequent recovery of 830 grams heroin from the co-accused corroborates the prosecution case regarding conspiracy and trafficking and that the alleged contradictions pointed out by the defence are minor in nature and do not demolish the prosecution case at the stage of bail. It is also submitted that bail to the co-accused does not by itself entitle the present applicant to bail because his role is distinct, being directly connected with receipt of the parcel and that the applicant may influence witnesses or evade the process of law if released.

6. I have heard the submissions advanced from both sides and have perused the record.

7. At the outset, it is to be noted that the present case concerns recovery of 760 grams of heroin from the intercepted parcel and 830 grams of heroin from the co-accused. Both recoveries are of commercial quantity. Therefore, the application has to be examined in the light of the limitations imposed by Section 37 NDPS Act. At this stage, this Court is not required to conduct a mini trial or to record final findings on the evidentiary worth of each witness. The Court has to see whether there exists reasonable ground for believing that the applicant is not guilty of the alleged offence and that he is not likely to commit any

offence while on bail. The expression “reasonable grounds” in Section 37 has a stricter connotation than mere prima facie doubt. Unless the Court reaches such satisfaction, the statutory bar continues to operate.

8. In the present matter, this Court is unable to record the satisfaction required under Section 37. The material placed by the prosecution, as noticed in the complaint and reply shows that the parcel was addressed in the name of the present applicant at his address in Vrindavan, Mathura. The prosecution case further shows that the dummy parcel was received by the applicant himself during controlled delivery. Even if the parcel delivered to him on 21.01.2022 was a dummy parcel, the prosecution case does not rest on a simple physical recovery from his hand alone. The allegation is of conscious participation in a trafficking arrangement involving receipt of a parcel sent from abroad and further delivery to the intended recipient in Delhi. The circumstance that the parcel containing contraband had already been opened and seized before controlled delivery does not, by itself, exonerate the applicant at the stage of bail, when the case of the prosecution is that the intercepted parcel was in his name and the controlled delivery was meant to verify and establish the recipient and the onward link in the chain.

9. The Ld. Counsel for the applicant has strongly relied upon contradictions in the testimony of PW-3 and PW-6. However, at this stage, the Court is not convinced to give a finding that the so-called infirmities are of such a nature as to justify a finding

that there are reasonable grounds for believing that the applicant is not guilty. The fact as to whether there was any lapse in collection of CCTV footage, some documents were photocopies, whether public witnesses supported the case fully, whether departure entries or vehicle logs were placed on record, whether there are omissions in witness testimony and whether some witnesses turned hostile, are all matters which will undoubtedly be relevant at the stage of final appreciation of evidence. But, at the stage of bail in a case involving commercial quantity, every discrepancy cannot be considered as a circumstance satisfying the twin conditions of Section 37. Several of the contentions raised by the applicant require a deeper examination of evidence. Since, the prosecution evidence is still ongoing it would not be justified to give a finding on merits of this stage.

10. So far as the argument regarding absence of direct recovery from the applicant is concerned, the same also does not by itself advance the case of the applicant beyond the statutory bar. The prosecution alleges a conspiracy and an active role therein of the accused. In offences involving criminal conspiracy and illicit trafficking, direct evidence is often unavailable and the role of each accused is required to be gathered from the chain of surrounding circumstances. The parcel in question was allegedly consigned in the applicant's name, the controlled delivery was allegedly completed at his address, his statement under Section 67 is relied upon by the prosecution, the co-accused was allegedly apprehended on the basis of follow-up disclosure and recovery of further commercial quantity was made from the co-

accused. At this stage, these circumstances cannot be brushed aside as wholly insignificant.

11. The defence has also relied on the legal sanctity of statements under Section 67 NDPS Act. There can be no dispute that such statements are to be evaluated in accordance with law at the appropriate stage. However, the prosecution case at this stage is not based on the Section 67 statement alone. The parcel allegedly stood in the applicant's name and the dummy parcel was allegedly received by him. There is material relied upon by the prosecution involving CDR. The subsequent recovery from the co-accused is alleged to be on the basis of the applicant's disclosure. Thus, this is not a case where the prosecution rests solely upon confessional statement.

12. The plea of parity also does not persuade this Court. Parity is not to be applied mechanically. The order granting bail to a co-accused cannot be treated as a straightjacket ground for release of every other accused. The role attributed to the present applicant is distinct. According to the prosecution, the parcel itself was addressed in his name and he was the person who received the controlled delivery at the destination address. Therefore, at least at this stage, the nature of allegations against him stands on a different footing.

13. The submission regarding old age, clean antecedents and long incarceration have also been duly noted. The applicant is a

senior citizen and has remained in custody for a substantial period. However, long custody by itself cannot override the statutory mandate of Section 37 in every case. In the present case, it is also significant that the Hon'ble Supreme Court had already considered the matter and declined to interfere with the order refusing bail, while directing expeditious conclusion of trial and granting liberty to revive the prayer in case delay continued for no fault of the applicant. The reply placed on record also indicates that thereafter the Hon'ble Supreme Court accepted the request for extension of time and directed the trial to be concluded within the next six months from the next date fixed before the trial court. In such circumstances, it cannot be said that a situation has arisen which by itself justifies ignoring the statutory embargo and the earlier orders passed up to the Hon'ble Supreme Court.

14. The argument that no written grounds of arrest were supplied, that no search warrant was issued before search of co-accused's house, or that there are defects in investigation, are again issues that may be examined at the appropriate stage on the basis of evidence and law. At present, these contentions do not enable the Court to arrive at a positive satisfaction that the applicant is not guilty.

15. The Ld. Counsel for the applicant has relied upon *Tarkeshwar Singh @ Rakesh Singh v. State through SHO, PS Naraina, Bail Appln. No. 4442/2024, decided on 10.02.2025 by the Hon'ble High Court of Delhi* and *Rakesh Kumar v. State, Bail*

*Appln. No. 1078/2024, decided on 27.01.2025 by the Hon'ble High Court of Delhi.* Both the said judgments are clearly distinguishable on facts. In *Tarkeshwar Singh @ Rakesh Singh (Supra)*, bail was granted mainly on account of prolonged incarceration, slow progress of trial and the particular facts of that case, where only 3 out of 28 witnesses had been examined and the Hon'ble Court found that the trial was not likely to conclude in the near future. In *Rakesh Kumar (Supra)*, bail was granted on the combined grounds of long incarceration, parity with the co-accused and specific discrepancies noticed in relation to Section 41 NDPS Act compliance and sealing of the case property. The present case stands on a different footing. Here, the allegations relate to an international parcel containing commercial quantity of heroin addressed in the name of the present applicant, followed by controlled delivery at his address and further recovery from the co-accused in the same chain of circumstances. Further, the role attributed to the present applicant is distinct and direct and the matter has already been considered up to the Hon'ble Supreme Court, where the bail was declined. Thus, the facts of the present case are materially different and the aforesaid judgments do not assist the applicant.

16. Having regard to the totality of facts and circumstances, this Court is not satisfied that there are reasonable grounds for believing that the applicant is not guilty of the offences alleged or that he is not likely to commit any offence while on bail. The twin conditions of Section 37 are therefore not satisfied.

17. Accordingly, the present bail application filed on behalf of applicant/accused Hotilal Pandey stands dismissed.

18. Nothing stated herein shall be construed as an expression on the merits of the case at the stage of trial.

19. 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.

20. The application stands disposed of accordingly. Copy of the present order be given *dasti* and same be also sent to concerned jail superintendent, to be supplied to the applicant/accused.

**(Jitendra Pratap Singh)**  
**ASJ NDPS Act**  
**(Special Judge)/PHC**  
**NDD/11.04.2026**