

IA 2/25 SC 234/25
FIR 47/25
State Vs. ZOYAKHAN & ORS.

18.11.2025

Present: Sh. Ravinder Kumar, Ld. Substitute Addl. PP for the
State.

None for applicant/accused Anwar Khan @
Chacha.

Vide my separate order of even date, the present
application is allowed 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.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
18.11.2025

**IN THE COURT OF ATUL AHLAWAT
ADDL. SESSIONS JUDGE, NDPS ACT (SPECIAL JUDGE)
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

IA 2/25 SC 234/25

FIR 47/25

State Vs. ZOYAKHAN & ORS.

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ORDER

1. Vide this order, I shall dispose of the bail application u/s. 483 BNSS, 2023 moved on behalf of accused / applicant Anwar Khan @ Chacha for grant of regular bail. Reply filed by the IO.

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, in which similar relief has been sought.

3. It is submitted by Ld. Counsel for applicant/accused that accused/applicant was formally arrested in the present case, while he was already in custody in case FIR No. 368/2024, registered at PS Greater Kailash. The name of the applicant/accused came up in the alleged disclosure statement of co-accused Zoya Khan. The prosecution is also relying upon one statement of Mohammad Aasif, who was the co-accused with the applicant/accused in the other case, in which the said witness had appeared before the officials of PS Special Cell and gave his

statement regarding the involvement of the applicant/accused in the offence in question. Thereafter, the IO also got the statement of said witness recorded U/s 183 BNSS, 2023 before the Ld. JMFC. The said witness being the co-accused in some other case and his statement has no evidentiary value in the eyes of law.

4. It is submitted by the Ld. Counsel for the applicant/accused that there is no recovery of any contraband effected from the possession of the present applicant/accused or at his instance after recording of his alleged disclosure statement. There is no CDR connectivity between him and the co-accused persons. There are no intercepted calls or text messages/WhatsApp chats to incriminate him in the present case. The disclosure statement of the co-accused in the present case and of the co-accused in some other case are both having no value in the eyes of law. The Ld. Counsel has placed reliance on the decision of Hon'ble Supreme Court of India in '*Tofan Singh v. State of Tamil Nadu*', (2021) 4 SCC 1 and the decision of Hon'ble High Court of Punjab & Haryana in '*Ravinder Singh @ Ravi v. State of Punjab*' Neutral Citation: 2025: PHHC: 0027840.

5. It is submitted by the Ld. Counsel for the applicant/accused that the investigation is already completed and the prosecution has cited 41 witnesses, however since the charges have not been framed, the trial is yet to begin and no further purpose would be served by keeping him in further custody.

6. It is submitted by the Ld. Counsel for the

applicant/accused that he is ready to abide with any condition that this Court may impose upon him if the bail is granted.

7. Per contra, it is submitted by the Ld. Substitute Addl. PP for the State duly assisted by the IO that the applicant/accused is involved in the criminal conspiracy of supply of the illegal contraband and his involvement came up in the disclosure statement of co-accused, wherein he has been named as the source of the contraband recovered in the present case. As per the location analysis and CDR details, close proximity between him and co-accused Zoya Khan on critical dates have been established, which reveals that the exchange of drugs took place and the applicant/accused and co-accused avoided normal calls deliberately and communicated through VoIP Call to evade detection. During the investigation, the statement of an old associate of the applicant/accused was recorded before the Ld. JMFC, in which the involvement of the applicant/accused in drug trafficking and the drugs recovered in the present case came up. The applicant/accused is a habitual offender and he has as many as eight other cases registered against him including murder and offences under MCOCA, if released on bail, he may threaten the witnesses and hamper the trial and he has already threatened and influenced witnesses in another case, after which case FIR No. 106/2025 was registered against him for committing offences punishable U/s 232 (1)/61(2) of BNS, 2023. Lastly, there has been recovery of commercial quantity of the contra-band in the present case and the bar of Section 37 is fully applicable. Therefore, the present application is strongly opposed.

8. After considering the rival contention of the parties, considering the facts & circumstances of the present case, and considering the fact that the investigation has already been completed and chargesheet is filed. There is no incriminating evidence against the applicant/accused except the disclosure statement of the co-accused Zoya Khan and the statement of an old associate of the applicant/accused, who was the co-accused in some other case. The said disclosure statements have no evidentiary value. Furthermore, there is no recovery of any contraband from the possession of the applicant/accused or at his instance. There are no call records, WhatsApp or other chat messages, text messages between him and co-accused persons. There are no financial transactions between him and the co-accused persons. The evidence produced by the prosecution, even taken collectively fall short of the threshold to establish conscious possession. The material may have probative value and implicate the applicant/accused, however such evidence requires to meet the test of cross-examination at the time of trial. Merely because, the co-accused had disclosed that the recovered contraband was procured from the applicant/accused is not enough to establish his role qua the said contraband. The mere recovery from the co-accused persons would not warrant the rigors of Section 37 of the Act to apply, since there is no material to link the applicant/accused with the recovery of the commercial quantity from the co-accused persons. Reliance is placed on the decision of Hon'ble High Court of Delhi in '*Phundreimayum Yas Khan v. State (GNCT of Delhi)*', 2023 SCC OnLine Del 135, '*Mohammad Aslam Chicko v. NCB through its Director General*', Neutral Citation: 2023: DHC: 6747 and '*Vinay Dua*

v. State Government of NCT of Delhi', Neutral Citation: 2025: DHC: 4955. Furthermore, merely because the applicant/accused has been involved in other cases, cannot be the sole ground to deny him the benefit of bail, since he has not been convicted in any other case and there is no other involvement of his in case involving the offences punishable under the provisions of NDPS Act. Reliance is placed on the decision of the Hon'ble Supreme Court of India in "**Prabhakar Tiwari Vs. State of UP**" (2020) 11 SCC 648. Therefore, in my considered opinion, he has made out his case for regular bail. Hence, the applicant/accused Anwar Khan @ Chacha is admitted to regular bail on following conditions:-

(i) On furnishing of personal bond of **Rs. 1,00,000/- with two local sureties** of the like amount, to the satisfaction of this Court/Ld. Link Judge/Ld. Duty JMFC.

(ii) He shall deposit his passport, if not already deposited/impounded and he shall not leave the country without the permission of this Court.

(iii) He shall duly join the investigation, as and when called upon by the IO, since the investigation is still pending and he shall not try to tamper the evidence or hamper the trial or try to influence the witnesses, in any manner.

(iv) He shall furnish his present and permanent address with supporting documents along with an affidavit/undertaking to inform any change thereof without delay to the SHO concerned.

(v) He shall mark his attendance in the PS concerned,

on the first Monday of each calendar month, till the investigation is completed and the trial is completed.

(vi) He shall not commit any offence, whatsoever, during the period he remains on bail in the present case.

(vii) He shall attend the trial without any single default.

9. Nothing stated herein shall tantamount to any expression or opinion on the merits of the case.

10. The application under Section 483 BNSS, 2023 moved on behalf of applicant/accused Anwar Khan @ Chacha for grant of regular bail is accordingly disposed off, as allowed.

11. Needless to say, that nothing expressed herein shall have any effect on the merits of the case.

12. Copy of this order be sent to concerned Jail Superintendent, for necessary intimation to the applicant/accused.

13. Application is disposed of accordingly.

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

(ATUL AHLAWAT)
ASJ/ Special Judge, NDPS/N. Delhi
Delhi/18.11.2025