

IA No. 18/25 in SC No. 399/2024
State Vs Deepak Chauhan
FIR No. 173/2024
PS Special Cell

09.06.2025

ORDER

1. Vide this order, I shall dispose off the bail application u/s. 483 BNSS, 2023 moved on behalf of accused / applicant Deepak Chauhan for grant of regular bail. Reply filed by the IO.
2. It is submitted by Ld. Senior 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. Senior Counsel for applicant/accused that accused/applicant is in JC since 06.06.2024, after he was formally arrested in the present case, upon the production warrants issued by the concerned Court in Case FIR No. 65/2024, PS Crime Branch.
4. It is submitted by the Ld. Senior Counsel for the

applicant/accused that this is the 2nd application seeking grant of regular bail and till date no application moved by him has been dismissed on merits by any Court, since the last application was dismissed as withdrawn.

5. It is submitted by the Ld. Senior Counsel for the applicant/accused that the applicant/accused was granted the benefit of interim bail on humanitarian grounds, considering the medical condition of his wife. He remained on the said interim bail from 15.02.2025 till 10.04.2025 and he had duly surrendered before the concerned authorities upon the completion of the interim bail period. Therefore, he has never misused the liberty granted to him by this Court, and he shall not pose any flight risk, if the present application is allowed.

6. It is submitted by the Ld. Senior Counsel for the applicant/accused that the applicant was falsely implicated on the basis of disclosure statements in the other case bearing FIR No. 65, PS Crime Branch, and his formal arrest in the present case was effected by the IO, while he was still in custody in that case, however, vide order dated 23.05.2025 passed by the Court of Ld. Special Judge, NDPS, North East, KKD Courts, the applicant/accused is granted regular bail.

7. It is submitted by the Ld. Senior Counsel for the applicant/accused that the present case FIR was registered on 26.04.2024, while the applicant/accused was still in custody in the aforementioned case FIR. The name of the applicant/accused allegedly came in the disclosure statements of the co-accused persons and his case is on similar or even better footing than that of co-accused Naveen Aggarwal (employer of the applicant/accused), who is already granted the benefit of regular bail by the Ld. Predecessor of this Court vide order dated 13.11.2024. Therefore, the applicant/accused is claiming parity with the said co-accused.

8. It is submitted by the Ld. Senior Counsel for the applicant/accused that as per the prosecution's story the role of the applicant/accused is of a facilitator in getting the technical knowhow of producing the contraband article and of helping the main accused Sanjay Kumar Sharma in setting up the factory, where the illegal substance was being manufactured. It has been stressed on behalf of the applicant/accused that he is merely a 12th pass with no formal education in science or allied fields and he was an employee of co-accused Naveen Aggarwal. As per the prosecution the said illegal factory was set up by the co-accused person, through the applicant/accused, who was part of the larger criminal conspiracy. Furthermore, for his role and participation

the applicant/accused allegedly received part of the proceeds of the crime, which was allegedly credited in his bank account.

9. It is submitted by the Ld. Senior Counsel for the applicant/accused that the story as put forth in the present case is highly unbelievable and no ordinary prudent person would believe the same, as the alleged credit entries in the account of the applicant/accused is of a period between year 2021 to March 2022, wherein he had allegedly received Rs 3,30,000/- from the account of co-accused Sanjay Sharma, while the offence took place later in the year 2024. Therefore, there are no means to attribute the said credit entries to the present case.

10. It is submitted by the Ld. Senior Counsel for the applicant/accused that the prosecution is relying upon the CDRs between the applicant/accused and co-accused persons namely Naveen Aggarwal, Sanjay Kumar Sharma and Rajvir @ Raju, however, there is no contraband recovered from the applicant/accused or the said co-accused persons. The only recoveries are shown through co-accused Rachit Kumar and Namit Chaudhary, however, there is no connecting link shown between them and the applicant/accused.

11. It is submitted by the Ld. Senior Counsel for the

applicant/accused that as per the case sought to be established by the prosecution, there was one email received by the the applicant/accused from one Vinay Kaushik, wherein the technical knowhow to produce the illegal contraband was supplied. The said email was allegedly forwarded to the co-accused Vinay Aggarwal. It has been stressed that the said formula was not for producing “Alprazolam” and it was containing some crude content, which was already available on the public domain. The genesis of the story is allegedly traced back to the said Vinay Kaushik, however, the prosecution in its own wisdom chose not to arraign the said person as an accused. Even if the said formula pertained to the production of illegal drug, then also it was for the co-accused Sanjay Kumar Sharma and Naveen Aggarwal to explain, as they were the alleged manufacturers and the applicant/accused was merely an employee of co-accused Naveen Aggarwal and he was merely acting upon the instructions of his employer. Interestingly, even recoveries were effected from the said co-accused persons. The co-accused Naveen Aggarwal, whose case is of more severe import than the the applicant/accused is already released on bail in the present case. Therefore, the continued incarceration of the applicant/accused is neither warranted nor called for.

12. It is submitted by the Ld. Senior Counsel for the

applicant/accused that the alleged CDRs connecting the applicant/accused with co-accused Sanjay Kumar Sharma and Rajvir @ Raju is a matter of trial and even the same does not establish that the applicant/accused was involved in the offence in question.

13. It is submitted by the Ld. Senior Counsel for the applicant/accused that the applicant/accused is already on bail in the other case registered against him and till date he has not been convicted in any other case.

14. It is submitted by the Ld. Senior Counsel for the applicant/accused that the prosecution is relying upon the statements of two public witnesses, namely Vinay Kaushik and Irfan and the said persons were actually involved in the process of illegal drug manufacture, and yet they were made the witnesses, and the applicant/accused is roped in as an accused. Furthermore, the statement of Irfan is not fully supporting the case of prosecution, since he has leveled the allegations of the applicant/accused being the partner of co-accused Sanjay Kumar Sharma and that the applicant/accused used to do the quality check of the manufactured drug, both of which are not the part of the prosecution story. Hence, no reliance upon their alleged statements can be made.

15. It is submitted by the Ld. Senior Counsel for the applicant/accused that in the present case there has been noncompliance of mandatory provision, i.e Section 52 of the NDPS Act, since grounds of arrest were never supplied to the applicant/accused by the IO. Only arrest memo was prepared, which is not containing any grounds of arrest. The fundamental right of the applicant/accused as enshrined in Articles 21 and 22 (1) of the Constitution of India have been repudiated and hence, the arrest was illegal and *non-est*. The Ld. Senior Counsel has relied upon the decisions of the Hon'ble Supreme Court in "**Pankaj Bansal Vs UOI & Ors.**" (2024) 7 SCC 576; "**Prabir Purkayastha Vs State (NCT of Delhi)**", (2024) 8 SCC 254; "**Vihaan Kumar vs State of Haryana**", 2025 SCC OnLine SC 269 and the decision of the Hon'ble High Court of Delhi in "**Gagan Vs State (NCT of Delhi)**", Bail Application 73/2025, date of decision 28.02.2025.

16. It is submitted by the Ld. Senior Counsel for the applicant/accused that there are 70 Prosecution Witnesses cited in the present case and the trial is yet to begin, as charges are still to be framed. Therefore, the conclusion of trial is going to take considerable time and the applicant/accused cannot be kept in custody for an indefinite period of time.

17. It is submitted by the Ld. Senior 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.

18. Per contra, it is submitted by the Ld. Addl. PP for the State, duly assisted by the IO that the applicant/accused is involved in the criminal conspiracy of manufacturing and supply/transmission of the illegal drug. During the investigation 4.172 Kg of “Alprazolam” was recovered, i.e commercial quantity. During the financial investigation, substantial amounts were found to have been credited in the account of the applicant/accused and his wife, from the account of the main accused Sanjay Kumar Sharma. There are statements of material public witnesses namely Dharmendra and Pradeep Kumar, which is implicating the applicant/accused in the commission of the offence in question, since the drug was manufactured at the directions of the applicant/accused and co-accused Sanjay Kumar Sharma. The applicant/accused is the main cog in the wheel of the conspiracy of establishment of the establishment of the illegal factory producing the drug in question. The formula of the drug was shared by Vinay Kaushik to the applicant/accused via email in the year 2018. The seized contraband, upon forensic examination has come out to be positive for “Alprazolam”. The

statement of witness Irfan u/s 164 Cr.P.C is categorical in nature, wherein the frequent visits of the applicant/accused to the factory and insistence in increasing the production has been established. Therefore, the present application is strongly opposed.

19. It is further submitted by the Ld. Add. PP for the state that there is no merit in the submissions of the Ld. Senior Counsel for the applicant/accused qua the non compliance of Section 50, NDPS is concerned, since the supply of ground of arrest was not essential as the applicant/accused was not arrested without warrants, and on the contrary he was arrested upon the production warrants issued against him. The said warrants in itself amounts to compliance of the grounds of arrest and separate grounds were not required to be furnished. The State has relied upon the decision of the Hon'ble Supreme Court in the case of "***Kasireddy Upender Reddy Vs State of Andhra Pradesh & Ors.***", Neutral Citation: 2025 INSC 768.

20. Before proceeding ahead with the merits of the present application, I deem it fit to first discuss the law of arrest and fundamental rights of the arrestee to be furnished with the grounds of arrest, in contradistinction to the reasons for arrest.

21. The expression "Arrest" is not defined in the Cr.P.C,1973

or BNSS,2023. The said expression has its origin in the the Old French word “arester”, which in itself comes from Vulgar Latin word “ arrestare”. The said word is a combination of two latin words “ad” and “ restare”, meaning “ to stand firm, stop”. Therefore, the concept of the word revolves around the meaning of stopping or holding something back.

22. The Standing Order No. 330/2019 of Delhi Police for Guidelines for Arrest, defines arrest as a procedure in a criminal justice system which is caused by using legal authority to deprive a person of his or her freedom of movement. The arrestee is taken into custody upon the probable cause upon reasonable belief that the police officer holds in the guilt of the suspect, based on the facts and circumstances of the information received by him, prior to the arrest. The said reasonable belief pertains to the suspect of either having committed the crime or might be committing in the near future. As a safeguard against the abuse of power, it requires that an arrest must be made for a thoroughly justified reason.

23. In ***Pankaj Bansal (Supra)***, the Hon’ble Apex Court has held that Article 22(1) of the Constitution provides, *inter alia*, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of

such arrest. This fundamental right guaranteed to the arrested person, the mode of communicating/conveying the information as to the grounds of arrest must necessarily be meaningful, so as to serve the intended purpose. For the arrested person to meet out the twin conditions prescribed u/s 45 of PMLA (corresponding provision of Section 37 of NDPS Act), it would be essential for the arrested person to be aware of the grounds on which the authorized officer has arrested him and the basis of the officers “reasons to believe”, that he is guilty of an offence. Therefore, the communication of the grounds of arrest must serve the higher purpose, as mandated in Article 22(1) and the same must be given due importance.

24. In *Prabir Purkayastha (Supra)*, the Hon’ble Apex Court has held that the right to life and personal liberty is the most sacrosanct fundamental right guaranteed under Articles 20,21 and 22 of the Constitution of India. Any attempt to encroach upon them has been frowned upon by the Hon’ble Supreme Court in catena of judgments. The arrestee has the fundamental and statutory right to be informed about the grounds of arrest in writing and copy of the same must be furnished to the arrested person to consult his advocate, oppose the PC remand and to seek bail. Any other interpretation would seek to dilute his fundamental rights, and such infringement shall vitiate the

process of arrest and remand. Merely because chargesheet has been filed, would not validate the illegality and the unconstitutionality committed at the time of arrest or immediately thereafter.

25. In ***Prabir Purkayastha (Supra)***, the Hon'ble Apex Court has further held that there is a significant difference between “reasons of arrest” and “grounds of arrest”. The former pertains to purely formal parameters as indicated in the arrest memo, i.e to prevent him from committing any further offence; for proper investigation; to prevent tampering with evidence; to prevent from inducement, threat or promise etc. While the latter would require to contain all such details in hand with the IO, which necessitated the arrest of the accused. It must contain all the basic facts on which he was arrested so as to provide him an opportunity of defending himself against custody remand and to seek bail. The grounds of arrest would invariably be personal to the accused, while the reasons of arrest would be general in nature.

26. In the landmark decision of ***Vihaan Kumar (Supra)***, it was held by the Hon'ble Apex Court that the requirement of informing the person arrested of the grounds of arrest is not a formality but a mandatory constitutional requirement. Article 22

is included in Part III of the Constitution, under the heading “Fundamental Rights”. Thus, it is fundamental right of every person arrested and detained in custody to be informed of the grounds of arrest as soon as possible. If the grounds are not informed as may be after the arrest, it would amount to violation of the fundamental right of the arrestee. If the mandate of Article 22 is not followed, then it will also amount to violation of Article 21, and the arrest will be rendered illegal. Once the arrest is held to be vitiated, the person arrested cannot remain in custody for even a second.

27. In the facts of the present case, it is not disputed that the applicant/accused was already in custody in other case, when the IO moved an application seeking issuance of his production warrants. Once the said application was allowed by the concerned Court, the applicant/accused was produced before the Court, where he was formally interrogated with the permission of the said Court and later arrested by the IO in the present case. The perusal of the record clearly reflects that the IO had merely prepared the arrest memo, in which the details of the present case FIR is mentioned, however, the grounds of arrest were never supplied to the applicant/accused.

28. There is no merit in the submissions of the Ld. Add PP for

the state that since the applicant/accused was formally arrested in the present case, after he was produced from JC, upon the production warrants issued upon the application moved by the IO, therefore, it was not mandatory to provide the grounds of arrest to him. The reliance upon the decision of the Hon'ble Supreme Court in ***Kasireddy Upendar Reddy (Supra)***, is highly misplaced, since, nowhere in the said decision, the Hon'ble Apex Court has held that if the accused is formally arrested after he is in JC/PC in some other case and when he is produced on production warrants and thereafter arrested formally, then the grounds of arrest need not be mandatorily provided to him. There is a clear distinction between arrest upon warrants and arrest without warrants. What the Hon'ble Supreme Court meant with arrest upon warrants is not the same thing as arrest after production warrants are issued. When a person is already in custody in some other case and the IO believes him to be suspect in some other offence being committed, he merely moves an application for the production of the said person in custody, so that he may formally interrogate him and may arrest him in that case as well, if circumstances so warrant. Nowhere does it mean that the order of production of the accused from JC is a warrant of his arrest. There are no reasons to be recorded in the said order warranting his arrest. There is no application of judicial application of the concerned Court, with respect to his arrest in

the other case. It is only after permission for formal interrogation, while being in custody, is granted for interrogation outside the Court room, however, invariably in the Court Complex, while in the custody itself, the IO interrogates the person/suspect. Then the IO exercises the option to arrest him or record his disclosure statement etc, and thereafter, he may seek his police remand for proper investigation of the said case. However, the formal arrest in the said case needs to be mandatorily accompanied with the supply of grounds of arrest to the arrestee, or else his fundamental right under Article 22 (1) is violated. Which is exactly what has happened in the present case. Therefore, I have no doubt to hold the mandate of Article 22 is not followed, and it amounts to violation of Article 21, and the arrest is rendered illegal and vitiated, therefore, the applicant/accused cannot further remain in custody.

29. Since, no grounds of arrest were ever communicated to the applicant/accused, therefore, the rigours of section 37 shall not apply to the present case, as the applicant/accused was never granted the opportunity to mete out the stringent conditions leveled in the present case. Therefore, as the arrest itself is vitiated, I shall not deal the present application on merits on the other grounds raised by the Ld. Senior Counsel for the accused.

30. After considering the rival contention of the parties, considering the facts & circumstances of the present case, and considering the fact that no grounds of arrest were communicated to the applicant/accused, rendering his arrest to be vitiated as being illegal, in my considered opinion, he has made out his case for regular bail. Hence, the applicant/accused Deepak Chauhan 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. Vacation Judge.
- (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 not try to tamper the evidence or hamper the trial or try to influence the remaining 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 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.

31. The application under Section 483 BNSS, 2023 moved on behalf of applicant/accused Deepak Chauhan for grant of regular bail is accordingly disposed off, as allowed.

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

33. Copy of this order be sent to Jail Superintendent, Tihar/Mandoli Jail for necessary intimation to the applicant/accused.

34. Application is disposed off accordingly.

35. Copy of the present order be given dasti and same be also sent to concerned jail superintendent, to be supplied to the applicant/accused.

(ATUL AHLAWAT)
ASJ/ Special Judge, NDPS/N. Delhi
Delhi/09.06.2025