

IA No. 27/2025
SC No. 385/2023
Crime No. VIII/16/DZU/2023
NCB Vs. Yash Gupta

10.07.2025

Present: Sh Akshay, Ld proxy counsel on behalf of Sh Arun
Khatri, Ld SPP for NCB.
Sh Zeeshan Hashmi, Ld. Counsel for
applicant/accused.

1. This is an application seeking early hearing/preponement of the bail application moved on behalf of applicant/accused, which is now listed for 21.08.2025.

2. It is submitted by the Ld. Counsel for applicant/accused that the bail application moved under section 483 BNSS, 2023 r/w section 439 CrPC, 1973 was listed before this Court for the first time on 05.07.2025. This Court had issued notice to the respondent/NCB to file the reply and the matter was listed for addressing the arguments, post the reply has been filed and supplied to the Ld. Counsel for applicant/accused.

3. Ld. Counsel for applicant/accused is seeking for an earlier date, preferably within one week from today, subject to the convenience of the Court and as relied upon the decisions of the Hon'ble Supreme Court of India in "***Hussain & Anr. Vs Union of India***", CrI. Appeal No. 509/2017, date of decision 09.03.2017 and "***Satender Kumar Antil Vs. CBI & Anr***", (2021) 10 SCC 773.

4. This Court is aware of the guidelines passed by Hon'ble Supreme Court of India in the abovementioned cases, however, owing to the extremely heavy cause list and the case pendency before this Court, the date was given in the bail application filed by

applicant/accused. As far as the directions given by Hon'ble Apex Court in *Hussain (supra)*, it was held that as far as possible, the bail applications in subordinate courts should ordinarily be decided within one week. Thereafter, the Hon'ble Apex Court in *Satender Kumar Antil (supra)* had directed the disposal of regular bail applications within period of two weeks, except if the provisions mandate otherwise.

5. In the humble opinion of this Court, the bail applications in NDPS cases, especially in the cases of recovery of commercial quantity, attracts the stringent provisions of the twin conditions mentioned in section 37 NDPS Act, 1985. The offences punishable under the NDPS Act, 1985 were categorized into a separate class i.e. category 'C'. The separate guideline was passed qua the different categories including the category 'C'. The question of giving a regular bail under the NDPS Act, wherein, the section 37 of the Act is applicable departs from the long established principle of criminal jurisprudence i.e. 'presumption of innocence'. The Court is required to give a positive finding of existence of reasonable grounds, i.e. something more than prima facie and which has been held to be 'existence of such facts and circumstances, as sufficient in themselves that accused is not guilty'. The substantial probable causes of believing that accused is not guilty, is *sine qua non*. The reasonable grounds signify 'in accordance with reasons'. The reliance is placed upon the decisions of Hon'ble Supreme Court of India in "*Union of India Vs Shri Shiv Shankar Kesari*", (2007) SCC 798, "*Union of India Vs Rattan Malik @ Habun*" (2009) 2SCC 624, "*State of Kerala & Ors. Vs Rajesh & Ors.*", MANU/SC/0084/2020, "*Union of India Vs Sanjeev V. Deshpandey*", MANU/SC/0688/2014, "*Union of India Vs Thamisharasi*", MANU/SC/0714/1995 and "*Collector of Customs, New Delhi Vs Ahmadalieva Nodira*", (2004) 3SCC 549.

6. The cases under the NDPS Act involves the charge sheet running into hundreds and thousands of cases, especially in the case of recovery of commercial quantity of contraband and in cases where multiple accused persons are involved and they are alleged to have been part of the criminal conspiracy. The additional burden upon the accused/applicant in regular bail applications to establish its case for giving the reasonable finding u/s 37 of the Act, involves detailed arguments which at times continue for more than one day and the arguments from the State/NCB and the rebuttal arguments continuing on the following days. The assistance of the IO, especially the recovery/seizure IO is required in all the cases to assist not only the Ld. Addl. PP/Ld SPP for NCB, however, to render assistance to the Court as well.

7. The undersigned took charge of the present Court on 31.05.2025 and there are 113 regular bail applications, which were pending at that time. The undersigned is also handling the bail roster and on an average, about 10 regular bail applications are filed and taken up by this Court every day. Most of the applications require lengthy arguments and time for this Court to appreciate the arguments and peruse the record, prior to passing the order.

8. There are 741 pending cases before this Court, out of which, 738 are ready for arguments/effective hearing. Out of which, there are 606 trials of NDPS Act, 1985 cases; 14 other Sessions trials; 28 Criminal Revision petitions; 23 Criminal Appeals. The abovementioned 113 bail applications are not listed in the cause list, since, they are interim applications filed in the pending cases. Therefore, owing to the extremely heavy work load, the longer date had to be given.

9. Furthermore, in the humble opinion of this Court, the period of 02 weeks as defined by the Hon'ble Supreme Court of India shall be counted from the day, the arguments are concluded by both the parties, especially considering the additional conditions of compliance of Category 'C' offences, as defined in *Satender Kumar Antil (supra)*.

10. Therefore, this Court is constrained to dismiss the present application and the regular bail application moved on behalf of applicant/accused shall be taken up on the date already fixed i.e. 21.08.2025.

11. The application stands disposed off accordingly.

12. Copy of the order be given dasti to parties.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
10.07.2025