

**IA No. 23/25 in SC No. 385/23
NCB Vs. Yash Gupta**

23.08.2025

Present: Sh. Akshay, Ld. Proxy counsel for Sh. Arun Khatri,
Ld. SPP for NCB.
Father of applicant/accused in person.

Vide my separate order of even date, the present application is allowed and disposed off 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/SPECIAL JUDGE (NDPS)/
PHC/NEW DELHI/23.08.2025**

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ORDER

1. Vide this order I shall dispose off the bail application u/s. 483 BNSS, 2023 moved on behalf of accused/applicant Yash Gupta 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.

3. It is submitted by Ld. Counsel for applicant/accused that accused/applicant is in JC since 01.04.2024. The applicant/accused has been falsely implicated in the present case and there is no recovery of any contraband effected from his possession or at his instance. The name of the applicant/accused came up in the alleged statements of the co-accused persons u/s 67 of the Act and no incriminating material was recovered through the applicant/accused, even after the recording of the said disclosure statements.

4. It is submitted by Ld. Counsel for applicant/accused that there is no money trail established by the prosecution and there are no CDRs to bring on record his complicity with the other co-accused persons. As per the version of the prosecution, upon the secret information received by the NCB office, a raiding team led

by IO Harender Kumar Dagar was constituted and it reached the office of DTDC Express Ltd., Samalkha, New Delhi on 19.04.2023 at 11:15 am. The IO enquired about the consignment numbers and 28 parcels were seized. The said parcel were sent by one AASK & Associates, Gurugram and in the presence of independent witness, the parcels were opened and was found containing LSD Blots. One parcel bearing AWB No. Z13669459 was allegedly addressed to the applicant/accused at his address in Mumbai, from which 50 LSD Blots containing 0.85 grams of the contraband (commercial quantity) was recovered.

5. It is submitted by Ld. Counsel for applicant/accused that there was not even an ounce of recovery made from the applicant/accused or any recovery made at his instance. The complaint has already been filed. Therefore, the entire case against him is based upon the disclosure statements and the same without any recovery is inconsequential, being inadmissible in law. In support the Ld. Counsel has relied upon the decision of the Hon'ble Apex Court in "***Tofan Singh Vs State of Tamil Nadu***" (2021) 4 SCC 1.

6. It is submitted by Ld. Counsel for applicant/accused that the alleged parcel never reached the intended destination and except for the name, mobile number and address of the applicant/accused mentioned on the parcel, there is nothing else to connect him with the alleged recoveries in the present case. The case of the applicant/accused is similar to the case of co-accused persons namely Vaibhav Yadav, Pritesh Aggarwal, Nishant Rawat, Arnav Dhankar and Avtar Singh, who have

already been granted regular bail by Hon'ble High Court of Delhi on 22.04.2025. Furthermore, vide the said common order, the bail application moved by the applicant/accused was dismissed, since at that time the applicant/accused had not undergone one year in custody and the Hon'ble High Court of Delhi had granted the liberty to the applicant/accused to urge the grounds available under Article 21 of the Constitution of India relating to speedy trial, if the trial was not concluded within reasonable time. Till date not even one witness has been examined by NCB and the chemical examiner PW1 M. K. Bisen has been examined in chief and partly cross examined on 21.08.2025. The trial is going to take a long time to conclude. The further incarceration is the main ground for change of circumstances since the last order being dismissed on merits by Hon'ble High Court of Delhi on 22.04.2025.

7. It is submitted by Ld. Counsel for applicant/accused that the case of applicant/accused is also similar with co-accused persons namely Joy Mitra, Jyotika Singh and P. Vijai Pranav, who have been granted anticipatory bail by the Hon'ble High Court of Delhi vide order dated 29.04.2025. The applicant/accused is praying for claiming parity with the co-accused persons since the grant of anticipatory bail to the said co-accused persons was after the last application of the applicant/accused was dismissed on merits. This is the second additional ground for change of circumstances.

8. It is submitted by Ld. Counsel for applicant/accused that the NCB is trying to show that on earlier occasion, there was

another parcel which was sent to the applicant/accused by Zambada Cartel led by co-accused Naveen Fogat and the said parcel was allegedly delivered to the applicant/accused at Mumbai. The NCB has not filed the courier tracking report evidencing the exact address on which the said parcel was sent. It merely mentions as the consignee “*To, Yash Gupta, Mumbai*”. The full name and the address of the consignee was not mentioned. The said parcel was never recovered and there is nothing on record to show that the said parcel contained any contraband.

9. It is submitted by Ld. Counsel for applicant/accused that the applicant/accused has absolutely clean antecedents and is ready to abide with any condition that this court may impose upon him.

10. Per contra, it is submitted by the Ld. SPP for the NCB duly assisted by the IO that the applicant/accused is involved in a case of criminal conspiracy and he is directly involved in the offence in question. There is no ground of parity with other co-accused persons, since apart from the parcel in question, the applicant/accused had received one more parcel in the past, which was sent to him by Zambada Cartel led by co-accused Naveen Fogat. The charges against him have already been framed and the Ld. Predecessor of this Court found strong suspicion of his involvement in the present case, therefore, the stringent condition of Section 37 of the Act are not made out in the present case.

11. In rebuttal, Ld. Counsel for applicant/accused has relied on decision of Hon'ble High Court of Delhi in "***Kamaljeet Singh Vs. Sh. H. K. Pandey (Intelligence Officer, NCB)***", bail application no. 2338/2004, wherein it was categorically held that the arguments that once a charge is framed, then in view of Section 37 of the Act, bail should not be granted, was rejected by the Hon'ble High Court of Delhi.

12. It is further argued by Ld. Counsel for applicant/accused that the Ld. SPP for NCB is trying to mislead this Court, since in order dated 29.04.2025, passed in the anticipatory bail applications filed by the co-accused persons, it was merely mentioned that similar circumstance of previous parcels being sent to co-accused P. Vijay, based upon the AWB Number and screen shot found on the mobile phone of co-accused Navin Fogat, was recorded by the Hon'ble High Court of Delhi and still the said co-accused was granted anticipatory bail.

13. After considering the rival contention of the parties, considering the facts & circumstances of the present case, even though there is no recovery of illicit contraband from the possession of the applicant/accused or at his instance, it is not the end of the matter. It is not the case of the prosecution that the applicant/accused was found in possession of the illicit contraband, his involvement is on the basis of being involved in the larger conspiracy and his part in facilitating the nefarious activities of the illegal drug trade.

14. However, to establish the said criminal conspiracy, the

prosecution is relying upon the disclosure statements of co-accused persons. The said evidence is also only circumstantial in nature. There is no incriminating evidence of any monetary transactions between the applicant/accused and other co-accused persons and there is no CDR or Cell Location ID chart etc. to link him with the offence in question and the entire case is based upon circumstantial evidence.

15. The issue of the materials filed by the NCB vide the complaint and supplementary complaint in the present case have been dealt by the Hon'ble High Court of Delhi in detail, vide order dated 29.04.2025 in "*Joy Mitra Vs. NCB Delhi*," Bail Application no. 372/2024. Except for allegation of previously delivered parcels, without the said parcel being recovered or showing that it contained contraband, does not implicate the applicant/accused, specially when he had denied receiving the said parcel.

16. There is only one material to show his complicity with the offences in question, i.e. his name, address and other details were mentioned on the parcel. *Prima facie*, the possibility of the applicant/accused being innocent and his details being mis-used, can not be ruled out at this stage.

17. Since, there is no other material to link the applicant/accused with the recovery of the contraband, the rigours of Section 37 of the Act does not apply.

18. The applicant/accused has been able to establish his case

on parity with co-accused persons who were granted anticipatory bail by Hon'ble High Court of Delhi.

19. The applicant/accused is able to meet out its case for change of circumstances since the dismissal of the last order on merit. Therefore, in the considered opinion of this court, the present applicant/accused has made out his case for grant of regular bail to him. **Hence, the applicant/accused Yash Gupta is admitted to regular bail on following conditions :-**

- (i)** On furnishing of personal bond of **Rs. 50,000/- with one surety** of the like amount, to the satisfaction of this Court.
- (ii)** He shall duly join the investigation, as and when called upon by the IO, since the investigation qua him is still pending.
- (iii)** He shall not leave the country without the permission of this Court and he shall deposit his passport with this Court (if not already done).
- (iv)** He shall not try to tamper the evidence or hamper the trial or try to influence the remaining witnesses, in any manner and shall not indulge in any act or omission that would prejudice the proceedings in the present case, in any manner whatsoever.
- (v)** 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 IO concerned and this Court (no later than 3 days of the said change).

- (vi) He shall attend the trial without any single default.
- (vii) He shall mark his attendance with the NCB office on every first Monday of the Calendar Month, till the trial is pending.

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

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

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

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

24. Application is disposed off accordingly.

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

(ATUL AHLAWAT)
ASJ/SPECIAL JUDGE (NDPS)/
PHC/NEW DELHI/23.08.2025