

IA 24/25 S.C. 448/24
NCB V/S EGENTI WISDOM CHIBUEZE

14.10.2025

Present: Sh. Harssh, Ld. Proxy counsel for Sh. Arun Khatri,
Ld. SPP for NCB.
Ms. Mamta Wadhwa, Ld. counsel for
applicant/accused (through VC).

Vide my separate order of even date, the present application is dismissed 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/Spl. Judge, NDPS/N Delhi
14.10.2025

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ORDER

1. Vide this order I shall dispose of the 5th bail application u/s. 483 BNSS, 2023 moved on behalf of accused / applicant Egenti Wisdom Chibueze for grant of regular bail. Reply filed by the IO and the same has been perused carefully.

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 was arrested in the present on 29.06.2024. The present applicant/accused has been falsely implicated in the present case and the recovery allegedly shown from his possession was planted upon him. The applicant has been in custody for over 15 months and the trial is going to take a long time to conclude.

4. It is submitted by Ld. Counsel for applicant/accused that the last application moved by the applicant/accused was dismissed by this Court vide order dated 21.08.2025 for non prosecution. Prior to that the bail application moved by the applicant/accused was dismissed on merits vide order dated

18.07.2025. Since, the dismissal of the last bail application on merits i.e. vide order dated 18.07.2025, there has been a material change in circumstances, firstly the charges have been framed and secondly the main accused Nadeem @ Rohit has been granted regular bail by this court and the applicant/accused is claiming parity with the said co-accused.

5. It is submitted by the Ld. Counsel for the applicant/accused that in the present case there has been non-compliance 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 are 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. 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; and “**Vihaan Kumar vs State of Haryana**”, 2025 SCC OnLine SC 269.

6. It is submitted by the Ld. Counsel for the applicant/accused that there the reasons of arrest as allegedly supplied to the applicant/accused are not complying with the mandatory guidelines issued in the aforementioned decisions. Furthermore, the grounds of arrest were not supplied to the family members of the applicant/accused, which is also a mandatory requirement as per the law laid down by the Hon'ble Supreme Court in **Prabir Purkayashtha (Supra)**. The personal search memo does not reflect that the written grounds of arrest were recovered from his

possession.

7. It is submitted by the Ld. Counsel for the applicant/accused that the applicant/accused is claiming parity with co-accused Nadeem @ Rohit, who was granted regular bail by this Court vide order dated 11.08.2025 on the similar grounds of non supply of grounds of arrest. He is ready to abide with any condition that this Court may impose upon him if the bail is granted.

8. It is submitted by Ld. Counsel for applicant/accused that he has absolutely clean antecedents and he is ready to abide with any condition that this court may impose upon him, if the present application is allowed and he is enlarged on regular bail.

9. Per contra, it is submitted by the Ld. SPP for NCB duly assisted by the IO that there is recovery of commercial quantity of the contraband from the applicant/accused. The provisions of Section 37 of the Act are fully applicable to the facts of the present case. There is substantial compliance of all the mandatory provisions of the NDPS Act. The last application of the applicant/accused was dismissed on merits, wherein all the grounds raised in the present application have already been dealt with by this Court.

10. It is further submitted by Ld. SPP for NCB that the FSL result of the recovered contraband during the investigating is also positive. Lastly, there is no change in circumstances since the dismissal of last order on merits, therefore, the State is strongly opposing the present application.

11. The change in circumstances for the purpose of granting bail are to be seen in the light of the law laid down by the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India in this regard. The Hon'ble Supreme Court of India in the case of ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 SC 2292***, has held that successive bail applications can be entertained by the court when substantial case is established by the accused, which would entitle him for getting bail in successive bail application. The court should not pass the order of releasing him on bail in successive bail application merely establishing some cosmetic change during the period between two applications which would entitle the accused for bail. In ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr., (2005) 2 SCC 42***, Hon'ble Supreme Court of India observed as under :

“This court also observed that though the accused has a right to make a successive application for grant of bail, the court entertaining such subsequent bail applications has duty to consider the reason and grounds on which the earlier bail applications were rejected and in such cases, the court also has a duty to record what are the fresh grounds which persuaded it to take a view different from one taken in earlier application.”

12. In ***Kalyan Chandra Sarkar*** case (Supra), it was also held by the Hon'ble Supreme Court that successive bail applications cannot be entertained only on the ground that the accused is in custody for a longer period.

13. If the law laid down in the above said judgments is applied to the facts of the present case, it is clear that there is no substantial change in circumstances for the purpose of grant of bail to the accused/applicant, only on the ground that he had spent more time in custody. The further period of custody is not a ground to be considered u/s 37 of the NDPS Act. Reliance is placed upon the decision of Hon'ble Supreme Court of India in **"NCB Vs. Mohit Aggarwal"**, MANU/SC/0899/2022. Furthermore, in light of statutory presumption and the stringent condition imposed u/s 37 of the NDPS Act, no ground for grant of regular bail is made out.

14. The case of the applicant/accused is clearly distinguishable with the case of co-accused Nadeem @ Rohit, since the bail application of co-accused was not allowed on merits, however, the same was allowed on the ground of non compliance of Section 52 and Article 22 (1) of the Constitution of India. The arrest memo of the co-accused Nadeem @ Rohit merely mention the recovery of 66.75 grams of amphetamine at DTDC Courier office, however, it did not contain any detail qua the information received by NCB or the details of the recovered contraband from 11 parcels addressed to different accused persons. There was no mention of the said parcels being allegedly booked by the accused Nadeem, while using the alias of Rohit or that when he had come back to DTDC office to pick up the parcels, since the addresses were incomplete, he was

arrested by NCB officials. The case of the applicant/accused is not similar with that of co-accused Nadeem. Furthermore, the said decision was passed by this Court by appreciating the law laid down by the Hon'ble Supreme Court of India 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 ***Kasireddy Upender Reddy Vs State of Andhra Pradesh & Ors.***, Neutral Citation: 2025 INSC 768.

15. The said decisions were passed prior to 14.08.2025, i.e. the date on which the Hon'ble Supreme Court of India has recently in state of ***Karnataka Vs. Sri Darshan Etc.***, Neutral Citation 2025 INSC 979 has discussed all the previous decisions and held that the constitutional and statutory framework does mandate that the arrested person must be informed of the grounds of arrest, however, neither provision prescribes a specific form, or insists upon written communication in every case. The judicial precedents of the Hon'ble Apex Court have clarified that the substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown. Both the decisions in ***Vihaan Kumar (Supra)*** and ***Kessireddy (Supra)*** have clarified that written, individualized grounds are not an inflexible requirement in all circumstances.

16. Therefore, this Court is bound by the interpretation of the law and the earlier decisions passed by the Hon'ble Supreme Court of India, in the aforementioned decision of Sri Darshan (Supra). No demonstrable prejudice is shown by the applicant/accused, therefore, no ground for grant of bail is made out on this aspect of

grounds of arrest.

17. In view of the discussions in the preceding paragraphs, this Court is not inclined to grant regular bail to the applicant/accused at this stage. The present application stands disposed off accordingly.

18. Needless to say nothing expressed herein shall have any bearing on the merits of the case.

19. Application is disposed off accordingly.

20. 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.

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

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
14.10.2025