

SC 412/2025

STATE OF DELHI Vs. KAILASH AND ANR.

FIR No. 208/2025

PS SarojiniNagar

03.06.2026

There are two time bound cases listed before the court today.

One of the regular stenographers is on leave today and no substitute steno has been provided.

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State.
Ms. Rukaya Rashid, Ld. Deputy LADC for both
accused persons.

Accused Kailash and Phool Chand produced from
JC.

I have heard learned Addl. PP for the State and
learned Dy. LADC for the accused persons on the point of
charge. Record has been perused.

1. Briefly stated, the case of the prosecution is that on 13.06.2025, during patrolling duty near Guru Govind Singh Marg, close to Khalsa School, Sarojini Nagar, accused Kailash and accused Phoolchand @ Chhotu were apprehended. It is alleged that from the conscious possession of accused Kailash, one packet containing 106.5 grams of Methamphetamine was recovered, while from accused Phoolchand @ Chhotu, one packet containing 35.5 grams of Methamphetamine was recovered. The aggregate quantity recovered from both accused persons was 142 grams, which falls within the category of commercial quantity. The motorcycle bearing registration no. DL-3SEP-6182 allegedly used by the

accused persons for transportation of the contraband was also seized.

2. During investigation, samples were drawn and sent for forensic examination. As per the FSL report, the exhibits tested positive for Methamphetamine, a psychotropic substance notified under the NDPS Act. Investigation further revealed that the motorcycle in question was a stolen vehicle and had already been reported stolen vide e-FIR registered at PS Saket. The prosecution also relies upon the disclosure statements of the accused persons alleging that the contraband had been procured from absconding co-accused Aslam for the purpose of sale.
3. Learned Addl. PP for the State submits that the recovery of commercial quantity of Methamphetamine from the accused persons stands corroborated by the FSL report. It is argued that both accused were acting in concert and were transporting the contraband on the motorcycle in question. It is further submitted that the motorcycle was found to be stolen property and, therefore, offences under Sections 22, 25 and 29 NDPS Act and Section 317(2) BNS are also made out.
4. Per contra, learned Dy. LADC for the accused persons has prayed for discharge stating that the accused persons have been falsely implicated and nothing has been recovered from them.

5. At the stage of consideration of charge, the Court is not required to conduct a meticulous examination of the evidence or determine its admissibility and reliability. The Court is only required to ascertain whether the material placed on record discloses grave suspicion against the accused persons which, if unrebutted, would warrant their trial.
6. In the present case, the material on record prima facie shows recovery of Methamphetamine from the conscious possession of both accused persons. The FSL report supports the prosecution case regarding the nature of the recovered substance. The material further indicates that both accused persons were found together and were allegedly transporting the contraband on the motorcycle in question. At this stage, there is sufficient material to raise a strong suspicion that the accused persons were acting in concert in relation to possession and transportation of the contraband, thereby attracting Section 29 of the NDPS Act.
7. The record further prima facie shows that the motorcycle allegedly used in commission of the offence was a stolen vehicle. The investigation reveals that the vehicle had previously been reported stolen and was recovered from the possession of the accused persons. Whether the accused persons had the requisite knowledge regarding the status of the vehicle is a matter of evidence and trial. However, the material presently available is sufficient to frame charge under Section 317(2) BNS.

8. As regards Section 25 NDPS Act, the said provision applies to a person who knowingly permits the use of any conveyance for commission of an offence under the NDPS Act. The record does not presently disclose that either accused was the owner of the motorcycle or that he knowingly permitted its use by another person for commission of the offence. Rather, the prosecution case itself is that both accused persons were using the vehicle. Prima facie, the ingredients of Section 25 NDPS Act are not attracted against the present accused persons.
9. Consequently, I am of the considered view that there is sufficient ground for presuming that accused Kailash S/o Damodar and accused Phoolchand @ Chhotu S/o Dayaram have committed offences punishable under Section 22(c) read with Section 29 of the NDPS Act and Section 317(2) of the Bharatiya Nyaya Sanhita, 2023.
10. Accordingly, charge be framed against both accused persons for offences punishable under Section 22(c) read with Section 29 NDPS Act and Section 317(2) BNS.
11. The accused persons are discharged for the offence punishable under Section 25 NDPS Act.
12. Matter be listed on 20.08.2026 for framing of charge.

(This Court has about 35 cases under directions of time bound trial by the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India, as such a short date is not possible.)

(Jitendra Pratap Singh)
ASJ/Spl. Judge, NDPS/N Delhi/03.06.2026/r