

IA 1/2026 SC 52/2026
FIR No. 226/2025
State v. Thana Ram
U/s 22/29 NDPS Act
PS Special Cell

01.06.2026

Present: Sh. A.B Asthana, Ld. Addl. PP for the State.
Sh. Javed Khan, Ld. counsel for applicant/accused.

Vide my separate order of even date, the application filed on behalf of the applicant/accused Thana Ram, seeking grant of regular bail is allowed and disposed of accordingly.

Copy of the order be given *dasti* as well as be sent to jail superintendent for supplying the same to accused in jail.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/01.06.2026

**IN THE COURT OF JITENDRA PRATAP SINGH
ADDL. SESSIONS JUDGE /SPECIAL JUDGE (NDPS),
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

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FIR No. 226/2025

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U/s 22/29 NDPS Act

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ORDER

1. Vide this order, I shall dispose of the first application moved on behalf of accused/applicant Thana Ram under Section 483 BNSS seeking grant of regular bail.

2. It is submitted by Ld. Counsel for applicant/accused and affirmed by the IO 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. Briefly stated, the case of the prosecution is that on 24.08.2025, pursuant to secret information received in the office of Special Cell/SR, Saket, a raiding party was constituted and a trap was laid near Metro Pillar No. 55, Vande Mataram Marg, near Army Public School, Dhaula Kuan, New Delhi. At about 06:45 PM, accused Jas Raj and the present applicant Thana Ram were apprehended in a Kia Sonet vehicle bearing registration No. 25BH5062G. The vehicle was being driven at that time by the

co-accused Jas Raj and the applicant was allegedly sitting alongside him. Upon search of the vehicle, four packets allegedly containing Methamphetamine were recovered from beneath the foot mat on the driver side and two packets were recovered from the beam under the driver side door. The total recovery allegedly weighed 3.080 kilograms and was subsequently found to contain Methamphetamine. The investigation was concluded and the charge-sheet has already been filed.

4. Learned counsel for the applicant submits that the applicant is serving in the Indian Army and has remained in custody since 24.08.2025. It is argued that no recovery has been effected from his personal search, his residence or at his instance. The vehicle in question neither belongs to him nor was he driving the same. It is contended that the prosecution material itself demonstrates that co-accused Jas Raj alone had travelled to Imphal, procured the alleged contraband and transported it up to the Agra-Lucknow Expressway. It is submitted that the applicant allegedly joined Jas Raj only thereafter and there is no material showing that he was aware of the contents concealed in the vehicle.

5. Learned counsel further submits that except for the disclosure statement of the applicant, the disclosure statement of co-accused Jas Raj and certain CDR/location records, there is no material connecting the applicant with the alleged contraband. It is submitted that there is no financial trail, no chats, no messages,

no independent witness and no material showing procurement, transportation or delivery of the alleged contraband by the applicant.

6. Per contra, learned Additional Public Prosecutor has opposed the application. It is submitted that commercial quantity of Methamphetamine has been recovered and the bar contained in Section 37 NDPS Act is attracted. It is argued that the disclosure statement of the applicant reveals his involvement in the transaction and further that the CDR analysis corroborates his meeting with co-accused Jas Raj on the Agra-Lucknow Expressway. It is submitted that the applicant was travelling in the same vehicle from which the contraband was recovered and was apprehended at the spot. It is submitted that the applicant is serving in Indian Army and the co-accused Jas Raj was earlier also serving in the Army but he did not join after availing leave and started trafficking narcotic and psychotropic substances. That both the accused persons are indulged in the said activities despite already having a proper source of income and therefore, the applicant does not deserve to be enlarged on bail.

7. I have heard the rival submissions and have perused the record.

8. There is no dispute that the recovery alleged in the present case is of commercial quantity and therefore the rigours of Section 37 NDPS Act are attracted. While considering the satisfaction required under Section 37, the Court is not expected

to conduct a mini trial. The Court is only required to ascertain whether there exist reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail.

9. The prosecution seeks to connect the present applicant with the alleged contraband primarily on the basis of (i) the disclosure statement of the applicant, (ii) the disclosure statement of co-accused Jas Raj and (iii) the CDR/location analysis showing proximity and connectivity between the applicant and Jas Raj.

10. Significantly, no recovery has been effected from the personal possession of the applicant. No recovery has been effected from his residence. No contraband has been recovered at his instance. There is also no material showing that the applicant was involved in procurement of the contraband from Imphal or that he exercised any control over the alleged concealment of the contraband in the vehicle.

11. A circumstance of considerable significance is that, even according to the prosecution, the applicant was not present when the contraband was allegedly procured from Imphal. The prosecution reply itself states that co-accused Jas Raj had travelled to Imphal, procured the contraband and transported the same in the Kia Sonet vehicle. The prosecution further alleges that the applicant met co-accused Jas Raj only on 23.08.2025 at about 05:00 PM on the Agra-Lucknow Expressway. Thus, the

entire chain relating to procurement and transportation of the contraband from Imphal till the Agra-Lucknow Expressway is admittedly attributed exclusively to co-accused Jas Raj and not to the present applicant.

12. Consequently, at least at this stage, there is no material demonstrating that the applicant participated in procurement of the contraband, its concealment in the vehicle or its transportation from Imphal. In these circumstances, the submission of the applicant that he was called by co-accused Jas Raj to the Agra-Lucknow Expressway on some other pretext cannot be brushed aside outrightly. Whether the applicant ultimately possessed prior knowledge regarding the alleged contraband is a matter that would be determined during trial. However, for the purposes of bail, the Court cannot ignore the fact that the prosecution has not pointed out any independent material demonstrating such prior knowledge.

13. The prosecution has placed substantial reliance upon the disclosure statements of the applicant and co-accused Jas Raj. However, after the Constitution Bench judgment of the Hon'ble Supreme Court in *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1, statements recorded under Section 67 NDPS Act cannot be treated as confessional statements and cannot constitute substantive evidence of guilt. The evidentiary value of such statements is therefore extremely limited and they cannot, by themselves, furnish a strong basis for inferring conscious

possession or criminal conspiracy.

14. In *Kashif v. NCB*, 2026 SCC OnLine Del 589, the Hon'ble Delhi High Court was dealing with a case where the prosecution sought to connect the accused with recovered contraband primarily through disclosure statements, alleged financial transactions and electronic evidence. The Hon'ble High Court observed that where no recovery has been effected from the accused and the prosecution case substantially rests upon disclosure statements of the accused and co-accused, such material by itself cannot constitute a sufficient basis to infer guilt at the stage of consideration of bail. The Hon'ble Court further reiterated that statements under Section 67 NDPS Act cannot be treated as substantive evidence after the decision in *Tofan Singh (Supra)*.

15. The next circumstance relied upon by the prosecution is the CDR and location analysis. The prosecution contends that the location of the applicant was found on the Agra-Lucknow Expressway on 23.08.2025 and that such circumstance corroborates the prosecution version regarding his meeting with co-accused Jas Raj. However, even if the said circumstance is accepted at face value, it merely establishes the physical location of the applicant. It does not disclose the contents of any conversation. It does not demonstrate any agreement to transport narcotic drugs. It does not establish prior knowledge regarding the alleged contraband concealed in the vehicle. Nor does it

establish participation in procurement or concealment of the contraband.

16. The Hon'ble Delhi High Court in *Kashif (Supra)* further observed that the evidentiary value of WhatsApp chats, CDRs and similar electronic material is a matter to be tested during trial and that such material is not substantive evidence by itself. The Hon'ble Court further observed that CDRs can at best serve a corroborative purpose and cannot be treated as conclusive proof of guilt.

17. The prosecution has not placed on record any audio recordings, chats, messages, independent witness account, bank transaction, hawala transaction, cryptocurrency transfer or any other independent material showing that the applicant participated in procurement, transportation, storage or intended delivery of the alleged contraband. There is no evidence showing any financial benefit received by the applicant from the alleged transaction. In the absence of such corroborative material, the CDR/location records merely show contact or proximity and nothing more.

18. The offence under Section 29 NDPS Act undoubtedly covers criminal conspiracy. However, conspiracy requires at least prima facie material demonstrating a meeting of minds or conscious participation in the unlawful act. Mere telephonic connectivity or physical proximity, without independent corroboration, would not by itself establish the offence of

conspiracy. The material presently placed before the Court falls short of demonstrating such conscious participation.

19. Thus, when the prosecution case against the applicant is analysed in its entirety, it emerges that except for the disclosure statement of the applicant, the disclosure statement of co-accused Jas Raj and the CDR/location analysis, there is no independent incriminating material connecting the applicant with procurement, transportation, concealment or intended delivery of the contraband.

20. The applicant is serving in the Indian Army. He is stated to have clean antecedents. The investigation stands completed and the charge-sheet has already been filed. Nothing has been brought to the notice of the Court to indicate that the applicant is likely to influence witnesses or tamper with evidence if released on bail. Appropriate conditions can adequately address such concerns.

21. In view of the aforesaid discussion, this Court is satisfied that, for the limited purpose of adjudication of the present bail application, there exist reasonable grounds for believing that the applicant is not guilty of the offence alleged. Considering the clean antecedents and the applicant being a serviceman, the Court is also satisfied that he is not likely to commit any offence while on bail. Accordingly, the twin conditions contemplated under Section 37 NDPS Act stand satisfied.

22. Consequently, the application is allowed. The applicant/accused Thana Ram is admitted to regular bail on furnishing a personal bond in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of the Court/Ld. Duty Judge, subject to the following conditions:

(i) The applicant shall not leave India without prior permission of the Court.

(ii) The applicant shall furnish his mobile number to the Investigating Officer and shall keep the same operational at all times.

(iii) The applicant shall not directly or indirectly contact, threaten or induce any prosecution witness.

(iv) The applicant shall appear before the Court on each and every date of hearing unless exempted.

(v) The applicant shall intimate the Court and the Investigating Officer regarding any change in his residential address or mobile number.

(vi) The applicant shall not indulge in any offence during the period of bail.

(vii) The accused shall surrender his passport (if any) with the IO.

23. It is clarified that nothing observed herein shall be construed as an expression of opinion on the merits of the case

and the observations are confined solely to adjudication of the present bail application.

24. Application is disposed of accordingly. copy of this order be given *dasti* to all concerned parties. Copy of this order be sent to concerned Jail Superintendent, for necessary intimation to the applicant/accused.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/01.06.2026