

IA 3/25 SC 413/19
FIR 207/12
PS Sagarpur
State Vs. NIRANJAN@ GUDDU

24.01.2026

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State
(through VC).

Sh. Pramod Kumar, Ld. counsel for
applicant/accused.

IO SI Rohan Dabas is present through VC)

IO has filed the reply. Copy supplied.

Arguments heard.

Put up for orders at 04.00 pm.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N Delhi
24.01.2026

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24.01.2026
At 04.00 PM

Present: Sh. A. B. Asthana, Ld. Addl. PP for the State
(through VC).
Sh. Pramod Kumar, Ld. counsel for
applicant/accused.

Vide my separate order of even date, the present application is dismissed 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.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N Delhi
24.01.2026

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

IA 3/25 SC 413/19

FIR 207/12

PS Sagarpur

State Vs. NIRANJAN@ GUDDU

24.01.2026

ORDER

1. Vide this order I shall dispose of the 2nd bail application u/s 483 BNSS, 2023 moved on behalf of accused / applicant Niranjan @ Guddu 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 the Ld. Counsel for the applicant/accused that no recovery ever took place from the possession of the applicant/accused or at his instance. The case property i.e. 30 Kgs of *Ganja*, which was allegedly recovered

from house no. 433, Gali No. 10, East Sagarpur, Delhi, can not be linked to the applicant/accused as there is no material on record to substantiate that the applicant/accused ever resided there or that the said premises was within the exclusive possession or control of the applicant/accused. The applicant/accused was not found present at the time of alleged recoveries affected from the said premises. There is no independent witness joined in the recovery proceedings. No videography/photography of the search and seizure was conducted. The proceedings u/s 52A of the Act were not conducted in the presence of the Ld. Magistrate.

4. It is submitted by the Ld. Counsel for the applicant/accused that there has been considerable delay in trial and the charges are yet to be framed. Furthermore, there are 19 witnesses that are yet to be examined and the trial would take long time to conclude. The delay in trial has affected the right of the applicant/accused guaranteed under Article 21 of the Constitution of India and the conditional liberty must over right the embargo created u/s 37 of the Act. The Ld. Counsel has placed reliance on the decision of Hon'ble Supreme Court of India in "**Rabi Prakash Vs. State of Odisha**", 2023 SCC OnLine SC 1109.

5. It is submitted by Ld. Counsel for applicant/accused that the first application moved by the applicant/accused was dismissed by this Court vide order dated 01.05.2025. Since, the dismissal of the said order, there has been a material change in circumstances, since he has remained in further custody for over 8 months.

6. 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.

7. Per contra, it is submitted by the Ld. Addl. PP for State duly assisted by the IO that there is recovery of commercial quantity of contraband from the rented premises of the applicant/accused. When the raid was conducted, the applicant/accused and his brother Naresh @ Nare and Manish fled from the spot. The applicant/accused was declared as a proclaimed person on 30.08.2016 and he was arrested later on 13.04.2025 and produced before this Court upon a kalandara. All the grounds raised in the present application were already dealt with and there are no material changes in the circumstances.

8. It is further submitted by Ld. Addl. PP for State that the FSL result of the recovered contrabands during the investigation has also come out positive, therefore, the State is strongly opposing the present application.

9. 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.”

10. 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.

11. The Ld. Predecessor of this Court had already dealt with all the grounds on merits vide dismissing the previous application on 01.05.2025.

12. Furthermore, this court is not a Constitutional Court, so as to extend the same benefit to the applicant/accused qua the violation of Article 21 of the Constitution of India, since it has been repeatedly held by the Hon'ble Supreme Court of India and Hon'ble High Court of Delhi that it is the duty of the Hon'ble Constitutional Courts to protect the right of the person under

Article 21 of the Constitution of India, if there is any delay in trial and the conditional liberty would outweigh the statutory limitations of Section 37 of the Act.

13. The absence of the videography and photographs, while a factor to be weighed at the time of trial, does not itself render the seizure illegal. The recovery is supported by the contemporaneous documentation, forensic confirmation, the statements of official witnesses and therefore, no grounds to dilute the rigours of Section 37 of the Act are made out. Reliance was placed on the decision of the Hon'ble High Court of Delhi in "**Amit Bhatnagar Vs. NCB**", Bail Application no. 1804/2025, date of decision 27.08.2025.

14. The conduct of the applicant/accused wherein he had absconded and was later declared as a Proclaimed Person vide order dated 30.08.2016 and that he was arrested after more than 8 years on 13.01.2025, wherein the trial has been considerably delayed due to his absconding, therefore, the delay in the trial is fully attributable to the present applicant/accused.

15. 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.

16. 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.

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

18. Application is disposed of accordingly.
19. 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.
20. A copy of this order be given *dasti* to all concerned parties.

(ATUL AHLAWAT)
ASJ/ Special Judge, NDPS/N. Delhi
Delhi/24.01.2026