

IA No. 3/2025
SC No. 333/2025
State Vs. Balkesh Nagia @ Ballu
FIR No. 122/2025
PS: Crime Branch
U/s: 20/25/29 NDPS Act

20.12.2025

**ORDER ON APPLICATION FOR ANTICIPATORY BAIL
FILED ON BEHALF OF THE APPLICANT/ACCUSED
BALKESH NAGIA @ BALLU**

1. This order of mine shall dispose of an application for grant of anticipatory bail filed on behalf of the applicant /accused Balkesh Nagia @ Ballu.
2. I have already heard the counsel for the applicant /accused and the Ld. Addl. Public Prosecutor for State.
3. Ld. Counsel for the applicant/accused Balkesh Nagia @ Ballu submitted that the applicant/accused has been falsely roped in the present case, even he has not been named in the present FIR and his name came in the disclosure statement of co-accused Raghuvver Roy @ Ravi, which is inadmissible in the eyes of law.
4. Ld. Counsel for the applicant further submitted that the applicant/accused is 52 years old man and the applicant is completely innocent person and he has apprehension that he may be arrested by the police officials of PS Crime Branch in the present false case. Ld. Counsel for the applicant/accused further argued that there is no evidence whatsoever against the present

applicant/accused, except the disclosure statement of the co-accused persons and the alleged CDR connectivity, which have no incriminating value, therefore, there is nothing on record against the applicant/accused.

5. Ld. Counsel for the applicant/accused further submitted that when the alleged recovery was made, the present applicant/accused was in judicial custody in some other case, therefore, by no means, he could be involved in the commission of present offence and by no stretch of imagination, he could be connected with the alleged recovered contraband. So far as his previous involvement is concerned, he is already on bail in all those cases.

6. Ld. Counsel for the applicant further submitted that the applicant/accused has already joined the investigation and he is further ready to join investigation as and when required by the IO. He also undertakes to appear before the Hon'ble Court on each and every date of hearing and he is ready to abide by all terms and conditions imposed by the Hon'ble Court and he also undertakes not to hamper/tamper with the prosecution evidence if he is released on anticipatory bail and prayed for grant of anticipatory bail.

7. In support of his contentions, Ld. Counsel also referred the judgments, **Tofan Singh vs. State of Tamilnadu, 2020 SCC Online SC 822; Jasbir Singh vs. State of Punjab, CRM-M14077-2020 Hon'ble High court of Punjab & Haryana; Deepak Nagiya vs. State (NCT of Delhi), Bail application no.**

1716/2023 decided on 13.09.2023 Hon'ble High Court of Delhi; Sabbo Shabana vs. The State NCT of Delhi, Bail Application no. 3999/2023 decided on 14.05.2024 by Hon'ble High Court of Delhi; Babli vs. The State NCT of Delhi, Bail Application no. 3258/2023 decided on 03.11.2023 by Hon'ble High Court of Delhi; Mohd. Irshad vs. The State NCT of Delhi, Bail Application no. 994/2022 and CrI. MA 5749/22 decided on 05.05.2022 by Hon'ble High Court of Delhi; Shyam Gupta & Ors. vs. State, Cri. Rev. Petition 421/2019 decided on 13.03.2022 by Hon'ble High Court of Delhi; and Phundreimayum Yas Khan vs. State (GNCT of Delhi), Bail Application no. 1383/2022 decided on 11.01.2023 by Hon'ble High Court of Delhi.

8. On the other hand, Ld. Additional Public Prosecutor for the State vehemently opposed the present application for grant of anticipatory bail and submitted that in the case in hand, 348.176 kg Ganja was recovered from 17 plastic bags kept in a truck loaded with watermelons and the said truck was being driven by co-accused Intezar Malik and helper Rizwan. He also submitted that the name of the present applicant/accused was surfaced in the disclosure statement of co-accused Raghuvver Roy @ Ravi. He also submitted that the present applicant /accused has committed the offences u/s. 20/25/29 of NDPS Act alongwith the co-accused persons and the offences are serious in nature. There is sufficient material on record, which shows involvement of the present applicant/accused in the present case, and there is possibility of hampering with the witnesses and

tampering with the evidence, if the applicant/accused is released on anticipatory bail at this stage, so, this applicant/accused does not deserve the concession of anticipatory bail and prayed for dismissal of this application for grant of bail.

9. As per the reply filed by the IO, during investigation, a GPS device 'Last Track' was tracked, which was connected with white Silver SX4, Silver Swift Dzire, white i20 and Blue Honda Brio and name of the present applicant/accused was revealed. He also submitted that as per the directions of the Court, this applicant/accused has joined the investigation, but, he did not co-operate in the investigation. During analysis of the mobile phone of co-accused Raghuveer Roy, 15 different mobile numbers of the applicant were found saved in his phone. The present applicant/accused is also having criminal antecedents in 16 cases, out of which, 5 cases are of NDPS Act. Therefore, custodial interrogation of this applicant is required to unearth the truth and prayed for dismissal of the present application under consideration.

10. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Additional Public Prosecutor for State and perused the record.

11. Perusal of the record reveals that in the case in hand, 348.176 kg Ganja was recovered from the co-accused persons namely, Intezar Malik and Rizwan and the contraband recovered in the present case, falls within the category of commercial quantity, as per the NDPS Act.

12. As per the reply filed by the IO, the present applicant/accused has already joined the investigation. Alongwith the reply, the IO has filed report regarding status of the cases pending against the applicant/accused. Perusal of the same shows that he is on bail in all those cases, but, at the relevant time, when the alleged contraband was recovered in the present case on the intervening night of 20.05.2025 & 21.05.2025, the present applicant/accused was in judicial custody in some other case. Infact, he remained in custody from 10.03.2025 to 09.06.2025. Thus, the only evidence against the present applicant/accused is CDR connectivity, that too, much prior to the date of alleged incident.

13. Admittedly, in the present case, commercial quantity of contraband, in the form of 348.176 kg of Ganja was recovered from the co-accused persons namely, Intezar Malik and Rizwan and name of the present applicant/accused was surfaced in the disclosure statement of co-accused Raghuv eer Roy @ Ravi. Even on specific query by this Court, the IO failed to show as to how the present applicant/accused is connected with the alleged recovery. Neither he was the source, nor the intended receiver of the alleged contraband, so for what purpose his custody is required. Admittedly, he has already joined the investigation.

14. In **Phundreimayum Yas Khan v. State (NCT of Delhi)**, 2023 SCC OnLine Del 135, the Hon'ble High Court of Delhi has held that:

“Where there is no recovery from or at the instance of

the Applicant and there is no other material to link the Applicant to the recovery of commercial quantity from the co-accused, rigours of Section 37 of NDPS Act would not apply.”

15. During arguments, it surfaced that although the alleged contraband which has been recovered in the present case, was not meant for the present applicant/accused, yet the IO has submitted that the custodial interrogation is required to unearth the entire supply chain of the drug cartel, as there were CDR connectivity between the present applicant/accused and co-accused persons, which are still under investigation. No doubt, the evidentiary value of the CDR connectivity is a matter of trial, but, per se, it does not have any incriminating value as such. The relevancy and admissibility of the disclosure statement of the co-accused shall also be considered during trial. Bar of Sec. 37 of NDPS Act does not apply, so far as the present applicant/accused is concerned.

16. Considering all the facts and circumstances of the present case, the fact that the applicant/accused was already in custody in some other case, when the alleged recovery was made and there is nothing against the present applicant/accused, except the disclosure statement of co-accused and CDR connectivity and there is nothing to link the present applicant/accused with the alleged recovered contraband, and the applicant/accused has already joined the investigation, this applicant/accused Balkesh Nagia @ Ballu, in the event of his arrest, is ordered to be

released on bail on furnishing personal bond in the sum of Rs.50,000/- with two sureties of like amount each, subject to the following conditions:

- (1). He will not come in contact with any of the witnesses of the prosecution.
- (2). He will not tamper with the evidence of the prosecution.
- (3). He will not indulge in any criminal activity of similar nature in future.
- (4). He will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or the IO.
- (5). He will join the investigation and continue to do so as and when called by the IO.

17. In case, if he violates any of the above conditions, the prosecution will be at liberty to file application for cancellation of anticipatory bail of this accused.

18. In the above said terms, the application for grant of anticipatory bail filed on behalf of the applicant/accused Balkesh Nagia @ Ballu stands **allowed**. Dasti copies of this order be provided to the parties.

(PUNEET PAHWA)
**Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/20.12.2025**