

IA No. 7/2026
SC No. 391/2018
State Vs. Mohd. Husain
FIR No. 250/2018
PS: Crime Branch
U/s: 21 NDPS Act

30.01.2026

**ORDER ON APPLICATION FOR GRANT OF BAIL FILED
ON BEHALF OF THE APPLICANT/ACCUSED MOHD. HUSAIN**

1. This order of mine shall dispose of an application for grant of bail filed by the applicant/accused Mohd. Husain.
2. I have already heard Ld. Legal Aid counsel for the applicant/accused and the Ld. Addl. Public Prosecutor for State.
3. Ms. Sakshi Yadav, Ld. Legal Aid Counsel for the applicant/accused Mohd. Husain has submitted that in the present case, the present applicant/accused was earlier on bail, but, during trial he stopped appearing in the Court, therefore, vide order dated 05.07.2025, NBW were issued against the applicant/accused and thereafter, he was arrested on 27.09.2025 and since then, he is in judicial custody. She has also submitted that all the material witnesses of the prosecution have already been examined, so, there is no chance of hampering with the witnesses and tampering with the evidence, if the applicant /accused is released on bail at this stage and the applicant /accused is ready to abide all the terms and conditions, if imposed upon him and prayed for grant of bail.
4. On the other hand, Sh. F. M. Ansari, Ld. Additional Public Prosecutor for the State vehemently opposed the present application and submitted that during trial, the applicant/accused stopped appearing in the Court, therefore, vide order dated

05.07.2025, NBW were issued against the applicant/accused and the NBW remained unexecuted despite sincere efforts. Thereafter, proceedings u/s. 82 CrPC were got issued against the applicant/accused alongwith warrants of attachment against his surety. He has also submitted that in the case in hand, 200 grams of Heroin was recovered from the possession of the applicant /accused. He also submitted that since, the evidence of the prosecution is still going on, so, there are chances of hampering with the witnesses and tampering with the evidence, if the applicant/accused is released on bail at this stage. Hence, the present applicant/accused does not deserve the concession of bail and prayed for dismissal of this application for grant of bail.

5. In his reply, IO has submitted that the present accused was apprehended from Bareilly on 27.09.2025. The applicant/accused was also found indulged in another case registered vide NCB Crime No. 5/21 U/s. 8/20/25/29 NDPS Act at PS NCB Lucknow.

6. 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.

7. Perusal of the record shows that in the case in hand, earlier, the applicant/accused was on bail, but, during trial, he stopped appearing in the Court, therefore, vide order dated 05.07.2025, NBW were issued against the applicant/accused and thereafter, proceedings u/s. 82 CrPC were also got issued against the applicant/accused alongwith warrants of attachment against his surety.

8. Bare perusal of the record also shows that in the present case, the prosecution has cited total 12 witnesses, out of which, 10 witnesses have been examined so far. The present applicant/accused is

in judicial custody since 27.09.2025.

9. The Hon'ble High Court of Delhi in case, **Nadeem Chaudhary Vs. State of NCT of Delhi** (Bail Application No. 39/2022) has observed that:

“The object of Jail is to secure the appearance of the accused persons during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is likely to take considerable time. The presence of the accused can be secured at the time of trial by putting appropriate conditions”.

10. The Hon'ble High Court of Delhi relying upon the case, **Deepak Yadav V. State of U.P.**, (2022) 8 SCC 559 has observed that:

“Moreover, it is settled law that this Court at the stage of granting bail to the applicant is only to look into the (i) the nature and gravity of the offences/charges coupled with the severity of punishment in case of conviction; and (ii) if there is any chances of the accused absconding once out of bail; and (iii) if there is a reasonable apprehension of the accused influencing the witnesses or tampering the records when released on bail; and (iv) the past conduct and previous record of the accused as he should neither be a threat to the society of which he is going to be a part of once again nor there should be any change of his repeating the same or indulging in any other offence; and (v) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; and (vi) behaviour, means, position and standing of the accused in the society”.

11. The Hon'ble High Court of Delhi in another case, **Raghav Thakur Vs. State** (Bail Application No. 1397/2023) has also observed that:

“The object of keeping a person in custody is to ensure his availability to face the trial and to receive the sentence that may be passed. Apart from the seriousness of the offence, other factors also have to be borne in mind while considering the bail application. Delay in commencement and/or conclusion of trial is also to be taken into account and the accused cannot be kept in custody for indefinite period, if the trial is likely to take long time”.

12. So far as the apprehension regarding intimidation to the witnesses is concerned, appropriate conditions can always be imposed upon applicant/accused in order to allay the apprehension raised by prosecution.

13. Considering the facts and circumstances of the present case and the fact that earlier, the applicant/accused was on bail in the present case and he is in judicial custody since 27.09.2025, the applicant/accused Mohd. Husain is ordered to be released on bail on furnishing personal bond in the sum of Rs.50,000/- with one surety of like amount and also 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 shall appear in the court on each and every date

of hearing.

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

15. In the above said terms, the present application for grant of bail filed on behalf of the applicant/accused Mohd. Husain stands **allowed.**

16. Dasti copies of this order be provided to the parties.

17. Attested copy of this order be also sent to the Superintendent of Central Jail concerned for supplying the same to this applicant/accused.

(PUNEET PAHWA)
**Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/30.01.2026**