IN THE COURT OF MS BABITA PUNIYA, ASJ-03
EAST DISTRICT, KARKARDOOMA COURTS, DELHI

Bail Application No. 981 of 2026

(Arising out of FIR No. 181 of 2026)

Police Station: Crime Branch East

Under Sections 61(2), 110, 111(2)(b), 276, 277, 278, 316(2), 318(4) and 336(3) of the Bharatiya Nyaya Sanhita, 2023

IN THE MATTER OF:

Mukesh

…Applicant/Accused

Versus

State (NCT of Delhi)

…Respondent/State

ORDER:

11.08.2026 at 05:00 P.M.

Present : None.

1. This is an application filed under Section 483 BNSS seeking regular bail on behalf of the applicant/accused, Mukesh, one of the accused persons arrayed in FIR No. 181 of 2026, Police Station Crime Branch, East Delhi, for offences under Sections 61(2), 110, 111(2)(b), 276 to 278, 316(2), 318(4) and 336(3) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the reply filed by the Investigating Officer, co-accused Satish Kumar, in his disclosure statement, stated that he had procured anti-cancer medicines from the present applicant/accused, Mukesh, without invoices, and supplied them further in the illegal supply chain. Acting on this disclosure, the applicant/accused was apprehended at Gurugram, and twelve (12) suspected anti-cancer drug vials, empty vials/cartons, packaging material, acetone, and a sum of Rs. 16,50,000/- (Rupees Sixteen Lakh Fifty Thousand), suspected to be proceeds of crime, were recovered from his vehicle. The applicant/accused is described as a source-side supplier in the alleged illegal supply chain, and is stated to have had WhatsApp chats with co-accused Satish Kumar and co-accused Paramjit Sheoran.

3. On enquiry by this Court, the Investigating Officer has stated that no complaint of theft or of missing anti-cancer drugs has been received, till date, from any hospital, pharmaceutical company, distributor, or other entity. Report of analyst is still pending.

4. Learned counsel for the applicant/accused has raised the following submissions:

(i). That the foundation of the case against the applicant/accused is the disclosure statement of co-accused Satish Kumar, which, under Section 24 of the Bharatiya Sakshya Adhiniyam, 2023, is not substantive evidence against the applicant/accused;

(ii). That the twelve vials were planted by the police and even otherwise are only suspected to be anti-cancer drugs, and no report of the Government Analyst confirming their genuineness, adulteration, or spurious character has been placed on record; suspicion cannot take the place of proof;

(iii). That the empty vials, cartons, packaging material, and acetone were also planted by the police and nothing was recovered from his possession;

(iv). That the WhatsApp chats with co-accused Ramdas Satish Kumar and Paramjit have not been placed before this Court, whether as transcripts or under the certificate required by law for electronic records;

(v). That Section 316(2) BNS has no application to the applicant/accused, there being no allegation that he was ever entrusted with property by Continental Hospital or any other institution;

(vi). That Section 110 BNS is not made out, there being no allegation that the applicant/accused administered, or caused to be administered, any medicine to any identified patient, and no connection shown between the applicant/accused and the mechanism disclosed in the patients' statements in connected proceedings;

(vii). That Section 111(2)(b) BNS is not made out, there being no material of any prior charge-sheet within the preceding ten years establishing "continuing unlawful activity"; and

(viii). That the applicant/accused has no prior criminal antecedents, and that the investigation now required i.e., the Government Analyst's report, forensic examination of the recovered material, and financial tracing of the cash, is laboratory-based and documentary in character, and does not require the applicant/accused's continued custodial presence;

(ix). That the vehicle from which the recovery was effected has already been released on *superdari*, indicating that its continued custody was not considered necessary by the Investigating Agency itself, all relevant recoveries having already been documented at the time of seizure;

(x). That the applicant/accused has been falsely implicated in the present case; and

(xii). That the cash of Rs. 16,50,000/- recovered from the applicant/accused represents proceeds of sale of buffaloes, and is not proceeds of crime as suspected by the prosecution. He also drew attention of the Court towards para 8 of his bail application, wherein he has specifically pleaded the source of the recovered cash, stating that he is the owner of a dairy business, and that the amount represents proceeds of sale of his buffaloes to different persons.

(xiii). In view of the above, he prayed that accused may be released on bail.

5(i). Learned Prosecutor for the State has opposed the bail application, submitting that the combination of suspected drug vials, packaging material, and acetone, together with the substantial unexplained cash, discloses a *prima facie* case of considerable gravity; that custodial investigation is necessary to trace the source and destination of the cash and to prevent the applicant/accused from influencing that inquiry; and that release at this stage may hamper the ongoing investigation.

(ii). He further submitted that *prima-facie* all the offences alleged against the accused, including section 317 BNS is made out, though not invoked by the IO at this stage.

6. In rebuttal, learned counsel for the applicant/accused submitted that Section 317 BNS is not made out, since "stolen property" under Section 317(1) BNS requires proof that the property's possession was transferred by theft, extortion, robbery, cheating, criminal misappropriation, or criminal breach of trust. He submitted that an identifiable owner from whom the property is said to have been stolen is a necessary requirement for an allegation of theft or stolen property to stand, however, in *casu*, no such owner or complainant has come forward.

Analysis and reasoning:

7. I have heard learned counsel for the applicant/accused and learned Prosecutor for the State, and have perused the case diary/status report.

8. At the outset, I would like to quote a para of the bail matter passed by the Hon'ble Delhi High Court in the case of ***Pravez Khan vs Directorate of Enforcement,*** decided on 4 May, 2026. It reads as under:

> *6.3 In the present cases, of course, the allegation that the accused/applicants were involved in preparation, storage and sale of spurious anti cancer drugs is*

> *indeed an extremely serious allegation. But* ***one should be cautious not to get carried away with the seriousness of mere allegation; one should delve deeper as to whether there is any credible material to establish such allegation.*** *For, it is not uncommon that the prosecuting agencies would paint a very large canvas of allegations, but when it comes to providing supportive evidence or material collected, there might be none. The gravity of the offence charged against the accused, which is a relevant factor while considering grant of bail, does not mean mere allegations de hors the supportive evidence/material collected by the investigator. With that principle in mind, I have scrutinized the record, also at the same time being careful not to minutely analyse the material keeping in mind the broad principles of consideration of bail.*

9. **On Sections 276 to 278 BNS:** the recovery of twelve suspected anti-cancer drug vials, together with empty vials, cartons, packaging material, and acetone, from the applicant/accused's vehicle is a serious circumstance. However, the vials remain, at this stage, only suspected to be genuine, adulterated, or spurious; no report of the Government Analyst has been received. Nor has any forensic report been placed on record establishing that the recovered acetone and packaging material were, in fact, used, or were being used, to alter or repackage the seized vials or any other drug, as opposed to being present for an unconnected or innocent purpose, as urged by the applicant/accused. The inference sought to be drawn by the State that this combination of items discloses an operation to repackage or counterfeit medicines is a reasonable one for the purposes of investigation, but it remains, at the present stage, an inference from suspected circumstances rather than a fact established by expert examination. Consistent with the approach this Court has taken throughout these connected matters, suspicion, however reasonably founded, cannot take the place of proof at the

prima facie stage. Sections 276 to 278 BNS are, accordingly, prima facie indicated but not, on the material presently available, conclusively established. It is, however, relevant to note that Sections 277 and 278 BNS are classified as bailable offences under the First Schedule to the Bharatiya Nagarik Suraksha Sanhita, 2023, and Section 276 BNS, though classified as non-bailable, carries a maximum sentence of imprisonment for one year, or fine, or both, and is triable by a Magistrate.

10. **On Section 111 BNS:** the offence of organized crime, as defined, requires "continuing unlawful activity", an unlawful activity undertaken singly or jointly, as a member of, or on behalf of, an organised crime syndicate, in respect of which more than one charge-sheet has been filed before a competent court within the preceding ten years and cognizance taken thereon. This is a definitional prerequisite, not a matter of general suspicion. Learned Prosecutor was, on query, unable to point to any material on the case diary showing prior charge-sheet(s) within the preceding ten years against the applicant/accused or, on the material presently placed before this Court, against the co-accused, sufficient to establish "continuing unlawful activity" by an "organized crime syndicate" as defined. A single, presently pending FIR, without more, cannot by itself supply this ingredient. **This Court is, therefore, of the *prima facie* view that Section 111 BNS is also not made out on the record as it presently stands,** though this finding is without prejudice to the State placing appropriate material, including as to the antecedents of the co-accused or other persons said to be involved, at a later stage.

11. **On Section 303/317 BNS:** theft requires the dishonest taking of movable property out of the possession of an identified person, without that person's consent. On query, the Investigating Officer has confirmed that no complaint of theft or of missing anti-cancer drugs has been received, till date, from any hospital, pharmaceutical company, distributor, or other entity. The case diary does not identify any person or entity from whose possession the applicant/accused is alleged to have himself taken the recovered vials. In the absence of any complainant or identified victim of theft, Section 303 BNS is not made out on the present record. Even if Section 303 BNS were taken as prima facie admitted, the maximum punishment prescribed under Section 303(2) BNS, for a first conviction, is imprisonment up to three years, or fine, or both, and enhanced punishment of rigorous imprisonment for a term of one to five years applies only upon a second or subsequent conviction, which has no application here.

On section 317 BNS i.e., receiving or retaining stolen property presupposes that the property is first shown to be stolen. Section 303 BNS itself not being made out for want of identified owner or complainant, the predicate for section 317 BNS is equally absent, and this offence is not made out at this stage.

12. **On Section 110 BNS:** this offence requires an act done with the intention or knowledge that, had death resulted, would amount to culpable homicide, presupposing an act directed at a specific person coupled with knowledge or intention at the level of endangerment to life.

It was submitted by the learned Prosecutor that statement of three patients has been recorded by the IO and he drew attention of the Court towards the reply filed by the IO to the bail application of co-accused Abhishek Vaishya. Relevant para of the reply reads as under;

> *"During the further course of investigation, statement of 03 patients/attendants have been recorded so far. In that statements, they confirmed that they had been admitted to the respective hospital for treatment.* ***They further stated that despite undergoing the prescribed treatment, their medical condition continued to deteriorate. They have now come to know that the anti-cancer drugs issued for their treatment were not administered to them and were instead misappropriated by the nursing staff".***

In *casu*, the purported statement of the patient's does not allege administration of any fake or spurious medicine but only non-administration of drugs issued for their treatment. The source of their purported knowledge of the misappropriation is undisclosed, and further there is no medical opinion attributing deterioration of their health to this cause. **Suspicion cannot take the place of proof. Section 110 BNS is, thus, *prima facie* not made out in the given situation.**

13. **On Section 316 BNS:** the offence of criminal breach of trust requires entrustment of property, or dominion over property, to the accused, followed by dishonest misappropriation, conversion, use, or disposal of that property in violation of a legal direction or contract governing the entrustment. Learned Prosecutor, on query, was unable to point out any material on the case diary showing that the applicant/accused was entrusted with genuine drug stock by any company, hospital, distributor, or employer. What is shown, at its

highest, is unlicensed possession which is a materially different wrong from breach of an entrustment. **This Court is, therefore, of the *prima facie* view that Section 316 BNS is not made out on the record as it presently stands.**

14. **On Section 318(4) BNS:** cheating requires deception of an identified person, inducing that person to part with property or consent to its retention, to that person's detriment. Learned Prosecutor, on query, was unable to point to the statement of any complainant, buyer, or other deceived person on the case diary, nor to any traced transaction showing that a specific person was induced to pay for the drug believing it genuine. Recovery of stock and cash from the applicant/accused and the co-accused, without an identified deceived party, does not, by itself, supply this essential ingredient. **This Court is, therefore, of the *prima facie* view that Section 318(4) BNS is also not made out on the record as it presently stands.**

15. **On Section 336(3) BNS:** no specific forged document has been placed before this Court or shown to form part of the material relied upon by the prosecution. **This offence too, therefore, remains unsubstantiated at the *prima facie* stage on the material presently available.**

16. **On Section 61(2) BNS:** even if taken as *prima facie* admitted in relation to the offences under Sections 276 to 278 BNS, it would attract only the punishment under Section 61(2)(b) BNS, being imprisonment up to six months, or fine, or both, and is bailable.

17. **On the WhatsApp chats:** the veracity and evidentiary value of the alleged WhatsApp chats are matters to be tested during the course of the trial, as the same are not substantive piece of evidence and can only be used for corroboration. At this stage, the said material cannot be treated as conclusive proof of the applicants' guilt to deny him the concession of bail (Ref: **Kashif vs Narcotic Control Bureau,** decided by the Hon'ble Delhi High Court on 12 February, 2026).

18. **On custodial necessity** — the Government Analyst's examination of the seized vials, forensic examination of the recovered packaging material and acetone, and financial tracing of the cash recovered are all laboratory-based and documentary in character. None of these steps requires the continued custodial presence of the applicant/accused. It is also relevant that the vehicle from which the recovery was effected has already been released on *superdari*, all recoveries having been documented at the time of seizure, indicating that the Investigating Agency itself did not consider the vehicle's continued custody necessary. The State's apprehension that the applicant/accused may influence the financial investigation is a legitimate concern, but is more appropriately addressed through conditions restraining him from dealing with the cash, bank accounts, or related records, and from contacting the co-accused, rather than through continued incarceration pending the results of tests and examinations that do not depend on his custody.

19. **On the explanation regarding the cash, and the plea of false implication:** the applicant/accused, in paragraph 8 of the bail application, has specifically pleaded that he is the owner of a dairy

business, and that the cash of Rs. 16,50,000/- represents proceeds of sale of his buffaloes to different persons. He has also taken the plea of false implication. This Court is of the view that the truthfulness of the cash and buffalo-sale plea would be decided during trial

20. Considering (i) that Sections 276 to 278 BNS, while *prima facie* indicated by the recovery, remain unconfirmed by the Government Analyst's report or forensic examination; (ii) that Section 61(2) BNS, even if *prima facie* made out, is bailable and carries a maximum sentence of six months; (iii) that Sections 303, 316(2), 110, 111(2)(b), 318(4), and 336(3) BNS are *prima-facie* not made out; (iv) that every offence genuinely indicated carries a maximum sentence not exceeding seven years, save for Section 111(2)(b) BNS which is not *prima facie* made out, squarely attracting the safeguards under *Arnesh Kumar v. State of Bihar* and Section 35 BNSS; (iv) that the investigative steps now required do not depend on the applicant/accused's continued custody, and that the vehicle from which the recovery was effected has already been released on *superdari*; (vi) the absence of criminal antecedents, I am of the view that this is a fit case for grant of regular bail, subject to stringent conditions addressing the State's legitimate concerns regarding the cash and the co-accused.

<u>**Order:**</u>

21. The bail application is allowed. The applicant/accused, **Mukesh**, is directed to be released on regular bail on furnishing a **personal bond of Rs. 75,000/- with two sureties in the like amount** to the satisfaction of the learned CJM/ACJM/link ACJM/Duty magistrate and subject to the further following conditions:

(i). The applicant/accused shall not tamper with evidence, and shall not contact, influence, or approach, directly or indirectly, co-accused Satish Kumar, Paramjit, or any other co-accused or witness in the case;

(ii). The applicant/accused shall not deal with, transfer, or dispose of the cash seized from him, or any bank account or financial instrument connected thereto, pending completion of the financial investigation, and shall cooperate with such investigation;

(iii). The applicant/accused shall appear before the Investigating Officer as and when required and attend all hearings before the trial court unless exempted;

(iv). The applicant/accused shall surrender his passport, if any to the Investigation Officer;

(v). The applicant/accused shall provide his current address and mobile number to the Investigating Officer and intimate any change forthwith;

22. Breach of any of the foregoing conditions shall entitle the prosecution to seek cancellation of bail.

23. It is clarified that the findings recorded herein are confined to the disposal of the present bail application and are *prima facie* in nature. In particular, the finding that Sections 276 to 278 BNS are not conclusively established is without prejudice to the prosecution placing the Government Analyst's report, forensic examination results, or other material at a later stage, upon which this finding shall be open to reconsideration, including for cancellation of bail if warranted.

24. Copy *dasti* to the learned counsel for the applicant/accused as well as to the IO.

(Babita Puniya)
ASJ-03, East District
KKD Courts, Delhi: 11.08.2026