

**SC 239/2024**  
**STATE Vs. UCHE UWADIEGU**  
**FIR no.1272/2023**  
**PS Paschim Vihar West**

**16.01.2025**

**File taken up on an application u/s 483 of BNSS filed on behalf of the applicant/accused Uche Uwadiegu for grant of bail.**

Pr: Sh. Subhash Chauhan, Ld. Addl. PP for the State.  
Sh. Hari Om Gupta, Ld. Deputy Chief LADC for the applicant/accused.

File perused. Heard.

Reply filed on behalf of the IO. Copy supplied. Arguments heard. Case file gone through.

It is submitted by the Ld. Counsel that the applicant/accused is innocent and has been falsely implicated in the present case and he is in JC since 14.10.2023. It is further submitted that investigation has already been completed and chargesheet has already been filed in the present case. It is further submitted that there is non-compliance of section 50 of the NDPS Act. It is further submitted that place of alleged incident/recovery is a busy place, but there is no public witness of the alleged recovery in the present case. It is further submitted that there is a delay of 29 days in sending the samples to the FSL. It is further submitted that when the alleged contraband was tested on field testing kit it

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was Amphetamine, while as per the FSL report it is Methamphetamine. It is further submitted that the trial of case shall take long time to conclude. With these submissions, prayer is made for grant of regular bail.

On the other hand, Ld. Additional PP for the state has strongly opposed the present bail application of the accused on the ground that the allegations against the accused are serious in nature and the possibility of tempering of evidence and influencing of witness and fleeing away from the justice cannot be ruled out in case applicant/accused is admitted on bail. Ld. Addl. PP for the state further submits that the recovery in the present case is commercial in nature and there is bar u/s 37 of NDPS Act regarding the bail. Ld. Addl. P.P has prayed for the dismissal of the present bail application of the accused.

Brief facts of the case are that on 12.10.2023 applicant/accused was apprehended on the basis of a secret information and in pursuance of the said secret information 1.01 Kg of Heroin and 75 Gram of Amphetamine was recovered from his possession. Furthermore, during the investigation proceedings, all the provisions of section 50 of NDPS Act were complied with. As regards to the contention raised by Ld. Counsel that when the alleged contraband was tested on field testing kit it was Amphetamine and as per the FSL report it is

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Methamphetamine, however, it is not disputed that the commercial quantity for both Amphetamine or Methamphetamine are 50 grams. It is pertinent to mention here that in the present case, recovery of the alleged both the contraband is of commercial quantity, therefore, bar u/s 37 of NDPS is made out in the present case.

Further, the menace of selling of contraband has become rampant and the young generation is being seriously indulged in consumption of the contraband and in this regard, Hon'ble Supreme Court of India in case titled as “*Union of India Vs. Ram Samujh & Ors.*” 1999 (9) SCC 429, has elaborated that offences under NDPS Act are even more serious and grave than Murder cases. The Apex Court observed, “It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason

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may be large stake and illegal profit involved. This line of reasoning has been reiterated in the pronouncement in “*State of Kerala Vs. Rajesh*” in Criminal Appeal No.(S). 154157 of 2020 (arising out of SLP (Crl.) No(s).7309-7312 of 2019) decided on 24.01.2020 by the Hon’ble Supreme Court of India.

It is trite principle of law that while granting bail the court has to keep in mind (a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (b) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of cognizable offence; (c) the possibility of the applicant to flee from justice; (d) the possibility of the accused's likelihood to repeat similar or other offences; (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (f) Impact of grant of bail particularly in cases of large magnitude affecting a very large number of people; (g) The court should consider reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant and any other aspects of the case should be taken into consideration while granting bail.

Therefore, considering the facts & circumstances of the case as well as keeping in view the nature & gravity of the

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allegation against the applicant/accused, this Court is not inclined to grant bail to the applicant/accused at this stage. Hence, the present application is dismissed.

Nothing discussed herein-above shall have any bearing upon the merits of the case.

Copy of the order be given dasti, as prayed for.

Copy of the order be also sent to the concerned Jail Superintendent for information.

**(SATVIR SINGH LAMBA)**  
**ASJ/ SPECIAL JUDGE (NDPS),**  
**WEST DISTRICT, DELHI/16.01.2025**