

IA No. 4/2026 SC No. 187/2021
NCB Case No. VIII/01/DZU/2021
U/s 8/21/23/29 NDPS Act
NCB vs Sharifah Namaganda

28.03.2026

Present: Sh. Mukeysh Malik, Ld. SPP for NCB.
Sh. J.S. Kushwaha, Ld. Counsel for
applicant/accused.

Vide my separate order of even date, the application filed on behalf of the applicant/accused Sharifah Namaganda, seeking grant of regular bail 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.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/28.03.2026

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

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ORDER

1. Vide this order, I shall decide the fourth bail application filed on behalf of accused Sharifah Namaganda under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail in the present case.

2. It is submitted by Ld. Counsel for applicant/accused and affirmed by the IO 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. Briefly stated, the case of the prosecution is that on 27.01.2021, on the basis of specific secret information, the accused Sharifah Namaganda and co-accused Jascent Nakalungi were intercepted at IGI Airport, New Delhi and upon search of their baggage, commercial quantity of narcotic drugs was recovered. From the baggage of the present accused, 4 kg heroin and 510 grams cocaine were allegedly recovered. The contraband was seized, samples were drawn and both accused persons were arrested. During investigation, statements under Section 67 NDPS Act were recorded and investigation allegedly revealed

that the accused persons had come to India to deliver the narcotic drugs to one person namely Kingsley at Pastry Place, Vikas Puri, New Delhi and call detail records allegedly revealed communication between the accused and the said receiver. The prosecution case is that the accused persons were part of an organised international drug trafficking network.

4. The accused was arrested on 28.01.2021 and is in custody since then. Charges have already been framed and the case is presently at the stage of prosecution evidence. It is also not in dispute that this is the fourth bail application filed by the accused and earlier bail applications have already been dismissed or withdrawn.

5. It is submitted by the Ld. counsel for the accused that the accused has been falsely implicated in the present case and nothing was recovered from her conscious possession. It is further submitted that the trolley bag allegedly containing contraband did not belong to the accused and the bag was in the name of the co-accused. It is further argued that the sampling procedure was defective as the contents of two packets were mixed before drawing samples and therefore the sampling process is illegal. It is further argued that there are discrepancies in the weight of the contraband at the time of seizure and at the time of sampling which shows that the contraband was planted. It is further argued that no independent public witness was joined and no videography was conducted during the seizure proceedings. It is further argued that Section 50 NDPS Act was not complied with. It is further argued that the accused is in

custody since January 2021 and has undergone incarceration of almost five years and therefore the accused is entitled to bail on the ground of long incarceration. Reliance has been placed upon the judgment of Okoye Ifeanyi J @ John vs State (NCT of Delhi), Bail Application 382/2022, decided by Hon'ble High Court of Delhi on 14.05.2024.

6. Per contra, Ld. SPP for NCB has opposed the bail application stating that commercial quantity of narcotic drugs has been recovered from the accused and therefore the bar under Section 37 NDPS Act squarely applies. It is further submitted that earlier bail applications of the accused have already been dismissed and there is no change in circumstances. It is further argued that the accused is a foreign national and there is every likelihood that she may abscond if released on bail. It is further submitted that the trial has already commenced and prosecution witnesses are being examined and release of the accused on bail at this stage would seriously affect the trial.

7. I have heard the rival submissions and have perused the record.

8. At the outset, it is to be noted that in the present case commercial quantity of heroin and cocaine has been recovered from the accused and therefore the rigours of Section 37 NDPS Act apply. Section 37 NDPS Act places a statutory embargo on the grant of bail in cases involving commercial quantity and the Court is required to satisfy itself that there are reasonable grounds for believing that the accused is not guilty of the offence

and that she is not likely to commit any offence while on bail.

9. At the stage of bail, the Court is not required to conduct a mini trial, however, the Court is required to see whether there are reasonable grounds to believe that the accused is not guilty. In the present case, the recovery of commercial quantity of heroin and cocaine from the baggage of the accused, the fact that she was travelling together with co-accused, the alleged delivery arrangement and the call detail records showing contact with the receiver prima facie show involvement of the accused in trafficking of narcotic drugs. Therefore, at this stage, it cannot be said that there are reasonable grounds to believe that the accused is not guilty.

10. As regards the second condition of Section 37 NDPS Act, considering the nature of allegations and the fact that the accused is allegedly part of an organised drug trafficking network and is a foreign national, the possibility of absconding cannot be ruled out if released on bail. Therefore, the accused does not satisfy the twin conditions of Section 37 NDPS Act.

11. It is also important to note that this is the fourth bail application filed by the accused and earlier bail applications have already been dismissed or withdrawn. It is settled law that successive bail applications are maintainable only when there is a change in circumstances. 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.”

12. 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. In the present case, no substantial change in circumstances has been shown which would justify reconsideration of bail. Furthermore, the order dated 02.08.2024 of the Ld. Predecessor dismissing the earlier bail application would show that the grounds of the accused not owning the trolley bag and irregularities in the sampling procedure have already been considered by the Ld. Predecessor.

13. The main argument of the accused is long incarceration. It is true that the accused is in custody since January 2021. However, the Hon'ble Supreme Court has repeatedly held that long incarceration by itself is not sufficient to grant bail in NDPS cases involving commercial quantity unless the Court is satisfied that the accused satisfies the twin conditions of Section 37 NDPS Act. In the present case, the trial has already commenced and witnesses are being examined and therefore it cannot be said that the trial is not progressing.

14. The reliance placed on the decision of Okoye Ifeanyi J @ John (Supra) by the Ld. Defence Counsel, in view of this Court, is not of assistance to the accused for the reason that the facts of the said case are clearly distinguishable from the facts of the present case. The apprehension of the accused and recovery of the contraband in that case was in different circumstances.

15. Considering the above-mentioned facts, the Court is of the considered opinion that the accused is not entitled to bail at this stage in the present matter. Accordingly, the present bail application stands dismissed.

16. Nothing stated herein shall be construed as an expression on the merits of the case at the stage of trial.

17. 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.

18. Application is disposed of accordingly. Copy of the present order be given *dasti* and same be also sent to concerned jail superintendent, to be supplied to the applicant/accused.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/28.03.2026