

CNR NO. DLNE01-002043-2026

Bail Matters: 546/2026

State Vs. Kiran Jot Kaur

FIR No. 0226/2026

PS: Seelam Pur

31.07.2026

**ORDER ON APPLICATION FOR GRANT OF
ANTICIPATORY BAIL FILED ON BEHALF OF THE
APPLICANT/ACCUSED KIRAN JOT KAUR**

1. This order of mine shall dispose of an application for anticipatory bail filed on behalf of the applicant/accused Kiran Jot Kaur.
2. I have already heard the counsel for the applicant/accused and the Ld. Addl. Public Prosecutor for State.
3. Dr. Rajiv Nanda, Ld. Sr. Counsel for the applicant/accused Kiran Jot Kaur has submitted that the applicant/accused is having apprehension of being arrested in the present false case by the police of PS Seelampur. The present applicant/accused is a highly qualified professional, and is a license holder of a medical and cosmetic retail establishment under the name and style of 'Jan Aushadhi Kendra'. One Mustakim was an employee in the said medical shop and applicant's brother namely Love Jot Singh acted as a cashier to collect the cash payments from the shop. Ld. Sr. Counsel has also submitted that due to the medical issue with minor daughter of the present applicant/accused, the applicant/accused did not visit the shop for about 15 days, which fact can be verified from the CCTV footage installed at the shop.

4. Ld. Sr. Counsel for the applicant/accused further submitted that Mustakim misused his position and is alleged to have engaged in dealings involving contraband substances from the shop without the knowledge, consent, permission or authorization of the applicant/accused. The applicant/accused has neither any role in, nor any knowledge of, such alleged illegal activities. Ld. Sr. Counsel has also submitted that prior to the alleged incident, Mustakim had been caught stealing cash from the said medical shop of the applicant/accused, which act was clearly captured in the CCTV footage installed at the shop. Since, the applicant/accused was completely occupied with attending to her minor daughter, she was not aware about the activities of Mustakim and one Umar Farukh, who joined the said shop just two months earlier, who was also introduced by Mustakim. The applicant/accused has already filed a police complaint against Mustakim.

5. Ld. Sr. Counsel for the applicant/accused further submitted that the contraband drugs allegedly recovered from the shop were brought, completely without knowledge, consent or authorization of the applicant/accused. Ld. Sr. Counsel has also submitted that notice u/s. 67 of NDPS Act was served upon the applicant/accused, directing her to procure her presence, however, the said notice was not accompanied by the copy of FIR or any other document. The police officials conducted search-cum-raids on the shop of the applicant/accused, however, the said search was not in accordance with law, as laid down u/s.

41 & 42 of NDPS Act. Ld. Counsel for the accused has argued that the actual contents of the actual contraband, consisting in the total recovered contraband, does not even fall within the category of commercial quantity, as it was of very low percentage in the allegedly recovered substance. Moreover, no offence under the NDPS Act is actually made out as the applicant was having a valid license to deal with the allegedly recovered substance and mere non-production of bills, will amount to violation of license condition only, which at the most attract provisions of Drugs & Cosmetics Act and not any of the provision of the NDPS Act as such.

6. Ld. Sr. Counsel for the applicant/accused further submitted that the applicant/accused is a permanent resident of the given address and there is no chance of her absconding from the purview of the judicial system of India. The applicant /accused has very good antecedents, belongs to a good family and there is no criminal case pending against her. Moreover, till now, the police have not been able to produce anything incriminating against the applicant/accused. Ld. Sr. Counsel has submitted that in the present case, investigation qua the present applicant/accused is complete, as she has already handed over the license and other documents to the police and nothing incriminating has been recovered from or at the instance of the applicant/accused, which can link the present applicant/accused with the co-accused persons. The applicant/accused is a lady, having liability of her minor daughter, who is having serious

medical issues. The present applicant/accused is ready to join the investigation, as and when called by the IO/SHO concerned and prayed that the applicant/accused may be granted anticipatory bail in the present case and the applicant/accused undertakes to fully co-operate with the IO and abide by any conditions as imposed by this Hon'ble Court.

7. Ld. Sr. Counsel has relied upon the judgments of **Tofan Singh v. State of Tamil Nadu, CrI. Appeal No. 152/2013; Akash v. State of Kerala, Bail Appln. 2652/2021 dated 07.05.2021; Vibhor Rana v. Union of India, 2021:AHC::171222-DB dated 24.12.2021; Mukesh Kumar v. State of Himachal Pradesh, Cr. M.P. (M) No. 2144/2023 dated 13.09.2023; Phundreimayum Yas Khan v. State (GNCT of Delhi), Bail Appln. 1383/2022 dated 11.01.2023; and Gulab Rai @ Chetan v. State (NCT of Delhi), Bail Appln. 3840/2023 dated 19.01.2024.**

8. On the other hand, Sh. F. M. Ansari, Ld. Additional Public Prosecutor for the State has vehemently opposed the present application for anticipatory bail and submitted that in the case in hand, 1704 capsules of Pyeevon Spas Plus (containing Tramadol salt) weighing about 937.2 grams, 765 tablets of Ultrajet (containing Tramadol salt) weighing about 428.4 grams, 1176 capsules of Spasmo (containing Tramadol salt) weighing about 611.52 grams, 234+221 tablets of Alprazolam (containing Alprazolam salt) weighing about 255 grams and 131 bottles of Codeine Syrups weighing about 17.183 kg were recovered from the medical shop in the name of 'Pradhan Mantri Jan Aushdhi

Kendra'. The present applicant/accused is the registered license holder of the said medical shop. In the present case, commercial quantity of the contraband has been recovered, therefore, rigour of Sec. 37 of NDPS Act is applicable in the present case. The present applicant/accused has committed the offences u/s. 22/25/29 NDPS Act alongwith the co-accused persons, which is heinous in nature, so, she does not deserve the concession of anticipatory bail and prayed for dismissal of the present application for grant of bail.

9. In his reply, IO has submitted that the present applicant/accused though joined the investigation, but did not provide any bill and also did not disclose the source of the recovered controlled drugs.

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

11. Perusal of the record reveals that in the present case, commercial quantity of the contraband is alleged to have been recovered from the medical shop in the name of 'Pradhan Mantri Jan Aushdhi Kendra', therefore, rigour of Sec. 37 of NDPS Act is applicable in the present case. The present applicant/accused is the registered license holder of the said medical shop, which fact has already been verified by the IO. Now, whether she was having the knowledge of the alleged contraband lying in the shop or not, is matter of trial. It has also been verified by the IO that the license of the applicant/accused was valid on the day of

alleged recovery and she was also authorized to deal i.e. sale and purchase of the allegedly recovered contraband substances.

12. As per the case of the prosecution, in the present case, on 03.06.2026 at about 8:30 PM, a joint verification cum inspection was conducted at the medical shop of the present applicant/accused by the Drug Inspector from Drug Control Department, GNCT of Delhi and Insp. Amit Nara from Narcotics Squad/NED and other police staff. During the search of the said shop, 1704 capsules of Pyeevon Spas Plus (containing Tramadol salt) weighing about 937.2 grams, 765 tablets of Ultrajet (containing Tramadol salt) weighing about 428.4 grams, 1176 capsules of Spasmo (containing Tramadol salt) weighing about 611.52 grams, 234+221 tablets of Alprazolam (containing Alprazolam salt) weighing about 255 grams and 131 bottles of Codeine Syrups weighing about 17.183 kg were recovered. At that time, Mustkeem and Umar Farooq, who were the employee of the said shop were present. The license of the said shop was in the name of the present applicant/accused, whereas, accused Love Jot Singh was managing the said shop.

13. During investigation, accused persons furnished the valid license authorizing them to keep the alleged contrabands substance, which have been recovered from the said shop. IO has also admitted that the license is valid and accused persons were authorized for the sale and purchase of the said contrabands, however, the only allegation against the accused persons is that they failed to produce the valid bills/purchase invoices qua all the

recovered contrabands, as, the accused persons produced the bill regarding the Ultrajet tablets only.

14. Ld. Addl. PP for the State has argued that since the accused persons have violated the terms and conditions of the license, therefore, NDPS Act is attracted in the present case. However, whether the NDPS Act is actually attracted in the present case or not, or that the Drugs & Cosmetics Act is only attracted for violating the terms and conditions of the license, shall be considered at the appropriate stage, once the chargesheet is filed in the present case.

15. Ld. Counsel for the applicant/accused has further argued that there is non-compliance of Sec. 42 NDPS Act, as, the police officials conducted search-cum-raids on the shop of the applicant/accused, without following the mandatory provisions of the NDPS Act. Admittedly, as per the FIR only, the phone call of the drug inspector namely Sh. Ram Kumar Kumhar was received on the official number of the IO at 6:22 PM and after informing the ACP about the same, the IO proceeded for the location provided by the drug inspector and reached there at around 8:30 PM. Thus, it is clear that the information was received, as well as the IO reached at the spot for the search of the shop in question, after sunset and before sunrise.

16. The fact that IO had informed the concerned ACP on phone and also noted down the information received in the form of DD entry in compliance of Sec. 42 of NDPS Act itself shows that even the IO was convinced that Sec. 42 of NDPS Act

had to be complied with. However, only to that extent, Sec. 42 of NDPS Act has been complied with, which amounts to only partial compliance and portion which remained to be complied with was a material one and in the considered opinion of this Court, the non-compliance of Sec. 42 of NDPS Act has adversely affected the case of the prosecution.

17. Admittedly, as per the settled law, once the IO is convinced that there is a possibility of recovery of any contraband or controlled substance, on an information received by him, then he is bound to comply with the provisions of Sec. 41 & 42 of NDPS Act in letter and spirit. Since, the information was received at 6:22 PM and when IO reached at the shop, it was already 8:30 PM (both after sunset and before sunrise), then it was incumbent upon the IO to obtain search warrant or authorization from the concerned ACP/Senior Officers and in case, there was not enough time to obtain the same, due to some urgency, then he had to write down this fact and also his reason to believe, as envisaged u/s. 42 of the NDPS Act.

18. As per Sec. 42 of NDPS Act, if the recovery is to be effected after the sun set and before the sun rise, then according to Sec. 42 proviso 2 of NDPS Act, it is mandatory for the concerned official to write down his reason to believe to the effect that a search warrant or authorization cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, and the said grounds for his believe are to be sent to the immediate superior officer within 72

hours. In the present case, neither any reason to believe was written down in writing, nor the information was sent to the immediate superior officer within 72 hours for the compliance of Sec. 42 of NDPS Act.

19. Thus, clearly neither the search warrant or authorization was obtained, as provided u/s. 41 of NDPS Act, nor, any reason to believe was written down or the superior official was informed, as required u/s. 42 of the NDPS Act. Thus, this is the case of material non-compliance of Sec. 41 & 42 of NDPS Act, which cannot be ignored.

20. So far as the bar u/s. 37 of NDPS Act is concerned, the prosecution has been duly heard, so the first condition of Sec. 37 of NDPS Act is satisfied. The fact that the accused persons have valid license to deal with the allegedly recovered contraband, cannot be ignored and whether not having bills regarding the said contrabands, will amount to violation of any provision of NDPS Act or not has also become doubtful, which will be considered, once the chargesheet is filed. Lastly, the factum of violation of Sec. 42 of NDPS Act also weakens the case of the prosecution.

21. Considering the above discussion, it can be said that the accused persons, prima facie, may not have committed the alleged offence. Moreover, there is no previous involvement of any of the accused and nothing is on record, to suggest that if released on bail, the applicant/accused is likely to commit the same offence again. Thus, the remaining essential requirement of

Sec. 37 of NDPS Act also stand satisfied.

22. I have gone through the judgments relied upon by Ld. Counsel for the applicant/accused and in the considered opinion of this Court, they squarely apply to the present case also, so far as the present applicant/accused is concerned.

23. Considering all the facts and circumstances of the present case, the fact that in the present case, there is material non-compliance of mandatory provision of Sec. 41 & 42 of the NDPS Act, the applicant/accused was having valid license to deal with the sale and purchase of the allegedly recovered contrabands, and the fact that she has already joined the investigation and already handed over all the relevant documents to the IO, and also whether any provision of NDPS Act has actually been violated or not, has also become doubtful, and that it may take some time in filing of the chargesheet, and concluding the trial, therefore, the applicant /accused Kiran Jot Kaur, in the event of her arrest, is ordered to be released on bail on furnishing personal bond in the sum of Rs.1,00,000/- with two sureties of like amount each and subject to the following conditions:

- (i). She will not come in contact with any of the witnesses of the prosecution.
- (ii). She will not tamper with the evidence of the prosecution.
- (iii). She will not indulge in any criminal activity of similar nature in future.

(iv). She 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 her from disclosing such facts to the court or the IO.

(v). She will join the investigation and continue to do so, as and when called by the IO.

24. In case, if she violates any of the above conditions, the prosecution will be at liberty to file application for cancellation of anticipatory bail of the applicant/accused.

25. In the above said terms, the application for grant of anticipatory bail filed on behalf of the applicant/accused Kiran Jot Kaur stands **allowed**.

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

(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/31.07.2026