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**IN THE COURT OF THE XXXIV ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE AND SPECIAL JUDGE, (NDPS), (CCH -35),
BENGALURU.**

**Present: Sri. Ananda, B.A.L., LL.B., LL.M.
XXXIV Addl. City Civil & Sessions Judge and
Special Judge, (NDPS), Bengaluru.**

Dated this the 30th day of July 2026

Crl.Misc.No.6576/2026

Petitioner/Accused : 2 Debashish Banerjee @ Debu,
S/o. Late Bimol Banerjee,
Aged about 66 years,
R/at. No.104, 17th Block,
Subash Nagar, Rajauri garden,
New Delhi-110027.
(Accused No. 2 is in JC)
**(By Sri. Mohammad Ibrahim Arshad
M.P.,Adv.)**
V/s
Respondent : The State of Karnataka by
SHO, Hebbal Police Station,
Bengaluru.
**(By the Learned Public
Prosecutor)**

ORDER ON BAIL APPLICATION FILED U/S.483 OF B.N.S.S.

This is a Criminal Miscellaneous Petition filed by the
petitioner/accused No.2 U/s.483 of Bharathiya Nagarika

Suraksha Sanhita, 2023 ('B.N.S.S.' for short) seeking to enlarge him on bail registered by Respondent-Hebbal Police Station, Bangalore, in Crime No.92/2026 for the offences punishable U/s. 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

2. The grant of bail is opposed by the learned P.P. and requested to reject the application for the reasons set out in his written objections in the interest of justice.

3. Heard arguments from both the sides and perused the materials placed on record.

4. The points that arise for my consideration are:

1. Whether the petitioner/Accused No.2 is entitled for regular bail as prayed in the application filed under U/s.483 of Bharathiya Nagarika Suraksha Sanhita, 2023?

2. What order?

5. My answer to the above points is as follows:

*Point No.1: In the **Negative**,*

Point No.2: As per final order, for the following;

::REASONS::

6. Point No.1:- It is the case of the prosecution that, on 11-05-2026, at about 3:30 p.m., acting on credible information received from an informant, the police proceeded to the road in front of Sumangali Sevashrama, Srirama Srushti Apartment Road, Unnathi Layout, Anandnagar, within the jurisdiction of the Hebbal Police Station. It was learnt that three unknown persons were unlawfully in possession of the prohibited narcotic substance MDMA (Methamphetamine) and were attempting to sell the same to members of the public and prospective customers. The police apprehended the accused persons and, after following the procedure prescribed under law, conducted their personal search. During the search, a total of 4 kilograms and 180 grams of MDMA (Methamphetamine), along with other articles, was recovered and seized from the possession of the accused. Accordingly, a case was registered against the accused in Crime No. 92/2026 of Hebbal Police Station for the offence punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The respondent police have taken up an official investigation into the matter.

7. The learned counsel for Accused No.2, while advancing his arguments, contends that the petitioner is innocent of the alleged offences and has been falsely implicated in the present case. It is contended that there are no reasonable grounds to believe that the petitioner has committed any offence punishable with death or imprisonment for life. It is further submitted that there is no specific allegation or overt act attributed against the present petitioner. The petitioner has been implicated in the case without there being any direct material connecting him with the alleged contraband seized by the police. The learned counsel submits that the alleged contraband was not recovered from the personal possession of the petitioner and there is no material to establish his conscious possession or knowledge of the alleged narcotic substance. The learned counsel further submits that the petitioner is presently in judicial custody and is suffering from a serious prostate ailment, with clinical findings suspicious of prostate cancer. It is contended that the petitioner requires continuous medical evaluation and specialized treatment, and therefore, on humanitarian and medical grounds, he may be enlarged on bail to enable him to undergo necessary treatment.

8. The learned counsel contends that the respondent police have failed to comply with the mandatory provisions contained under Sections 42 and 50 of the NDPS Act, which has vitiated the alleged search and seizure proceedings. It is further argued that though the alleged raid was conducted at a public place, no independent witnesses have been secured, thereby creating doubt regarding the genuineness of the alleged seizure. It is further submitted that the complaint does not disclose any specific role played by the petitioner except alleging his presence at the spot. The learned counsel argues that mere presence of the petitioner in the vehicle cannot be considered as sufficient to establish conscious possession of the alleged contraband or to attract the provisions of the NDPS Act. It is further argued that the petitioner has been in judicial custody for a considerable period and his continued detention would cause undue hardship and prejudice. The learned counsel submits that there are no reasonable grounds to believe that the petitioner has committed the alleged offence, particularly when there is no recovery from his personal possession and the alleged contraband was found in the vehicle. The learned counsel submits that the petitioner is ready and

willing to cooperate with the investigation and undertakes to comply with any conditions that may be imposed by this Hon'ble Court. It is further submitted that the petitioner is not a flight risk, being a permanent resident of the address mentioned in the cause title, and there is no possibility of him absconding or evading the process of law. The learned counsel further submits that the petitioner undertakes not to tamper with the prosecution witnesses or interfere with the evidence in any manner and also undertakes not to delay the proceedings. The petitioner is ready to furnish adequate surety to the satisfaction of this Hon'ble Court. On these grounds, learned counsel prays that the petitioner be enlarged on regular bail.

9. The learned Public Prosecutor (P.P.), while advancing his arguments, contends that the investigating agency has seized 4 kilograms 180 grams of the narcotic drug MDMA (commercial quantity) and other articles from the possession of the accused. The accused is alleged to have committed offences punishable under and 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, which are punishable with imprisonment extending up to 20 years. Prima facie materials are available to

establish the commission of the said offences by the accused. Unless the accused is able to establish his innocence, the materials collected disclose the commission of the offences under the aforesaid provisions of the NDPS Act, and therefore he is not entitled to be released on bail.

10. It is further submitted that the acts alleged against the accused are anti-social in nature, adversely affecting the youth of the country and undermining the economic fabric of the nation. The accused was apprehended by the Investigating Officer while he was allegedly in possession of 4 kilograms 180 grams of MDMA (commercial quantity). Thus, a prima facie case has been made out against them. In view of Section 35 of the NDPS Act, this Hon'ble Court is required to draw the statutory presumption of culpable mental state, and under Section 54 of the NDPS Act, the Court is also required to draw the presumption arising from possession of illicit articles. Since the Investigating Officer seized 4 kilograms 180 grams of MDMA (commercial quantity) from the possession of the accused, it is for the accused to satisfactorily explain the lawful possession of the said contraband. The prosecution alleges that the accused had illegally transported the

narcotic substance with the intention of selling it to the public for unlawful gain, and they were apprehended along with the contraband. In the absence of any satisfactory explanation regarding such possession, the statutory presumptions under Sections 35 and 54 operate against the accused.

11. Further, the Investigating Officer has strictly complied with the mandatory provisions contained in Sections 41, 42, 43 and 50 of the NDPS Act, and no procedural irregularity or illegality has been committed during the investigation. It is contended that where an accused is alleged to have committed offences involving commercial quantity under the NDPS Act, Section 37 of the NDPS Act mandates that the Public Prosecutor must be afforded an opportunity to oppose the bail application, and the Court shall not grant bail unless it is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and is not likely to commit any offence while on bail. The burden lies upon the accused to satisfy this Hon'ble Court that he is not involved in the alleged offence. Since the accused has failed to discharge the burden cast upon him under Section 37 of the NDPS Act, he is not entitled to the discretionary

relief of bail. If the petitioner/accused is released on bail, there is every likelihood that he may indulge in similar offences again, abscond from the jurisdiction of the Court, intimidate or threaten the prosecution witnesses and thereby hamper the course of justice. His release would also be detrimental to the economic interests of society. The petitioner/accused is alleged to have been engaged in procuring narcotic drugs and selling the same to students and members of the public for unlawful monetary gain. The petitioner/accused is further alleged to have been selling narcotic drugs to the youth of the country, thereby encouraging drug addiction and jeopardising the future of young men and women. On these and amongst other grounds, the learned Public Prosecutor prayed for rejection of the regular bail petition.

12. On careful consideration of the rival submissions and the prosecution papers available on record, it is noticed that during the raid conducted by the investigating agency, they have seized 4 kilograms 180 grams of MDMA during the investigation stage. Hence, the seized substance falls within the category of commercial quantity under the NDPS Act. Therefore, the embargo contained under Section 37 of the NDPS Act squarely applies.

Before granting bail, this Court is required to record its satisfaction that there are reasonable grounds for believing that the accused is not guilty of the alleged offences and that he is not likely to commit any offence while on bail. At this stage, the petitioner has failed to satisfy either of the twin conditions contemplated under Section 37 of the NDPS Act.

13. It is well settled that in cases involving commercial quantity of narcotic drugs or psychotropic substances, bail cannot be granted unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. ***In State of Punjab v. Sukhwinder Singh @ Gora***, the Hon'ble Supreme Court has reiterated that the conditions prescribed under Section 37(1)(b)(ii) of the NDPS Act are mandatory and jurisdictional in nature and that bail cannot be granted unless the Court records its satisfaction regarding the twin conditions contained therein. Upon consideration of the material collected during investigation, this Court is unable to record such satisfaction in favour of the petitioner. Having regard to the nature and gravity of the accusations, the recovery of commercial

quantity of MDMA from the possession of the petitioner, the statutory presumptions available under Sections 35 and 54 of the NDPS Act, the severe punishment prescribed for the alleged offences, and the restrictions contained under Section 37 of the NDPS Act, this Court is of the considered opinion that the petitioner has failed to make out a case for grant of regular bail. Further, the possibility of the petitioner absconding from the jurisdiction of the Court, indulging in similar activities, or influencing witnesses and thereby hampering the prosecution case cannot be ruled out. The offence alleged is of a serious nature having adverse impact on society, particularly upon the younger generation, and therefore the societal interest and legislative intent behind the stringent provisions of the NDPS Act are required to be borne in mind. Accordingly, this Court is unable to record the satisfaction required under Section 37(1)(b)(ii) of the NDPS Act and consequently the petitioner is not entitled to be enlarged on regular bail. Accordingly, Point No.1 is answered in the **Negative**.

14. In view of my findings on point No.1, I proceed to pass the following;

::O R D E R::

The Petition filed by the petitioner/Accused No.2

U/Sec.483 of BNSS is hereby rejected.

*(Dictated to the Stenographer Grade-1, directly on the computer, corrected, signed and then pronounced by me in the open Court on this the **30th day of July, 2026**).*

(Sri. Ananda)

*XXXIV Addl. District and Sessions Judge,
& Special Judge, (NDPS), Bengaluru.*