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Syeeda Abida vs Narcotics Control Bureau

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Court : Delhi

Decided On : Apr-30-2026

Judge : Hon'Ble Mr. Justice Manoj Jain

Appeal No. : BAIL APPLN./1071/2026

Appellant : Syeeda Abida

Respondent : Narcotics Control Bureau

Advocate for Pet/Ap. : Mr. Siddharth Satija, Mr. Akash Sachan, Mr. Anuka Bachawat, Ms. Charu Sinha, Ms. Khushboo, Mr. Arun Khatri, Ms. Shelly Dixit

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ BAIL APPLN. 1071/2026 & CRL.M.A. 8018/2026

SYEEDA ABIDA

.....Petitioner Through: Mr. Siddharth Satija, DHCLSC with Mr. Akash Sachan, Mr. Anuka Bachawat, Ms. Charu Sinha and Ms. Khushboo, Advocates.

versus

NARCOTICS CONTROL BUREAU

.....Respondent Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% 30.04.2026

1. Applicant seeks regular bail in NCB case No. VIII/08/DZU/2023 dated

10.03.2023, registered by NCB, Delhi Zonal Unit, for commission of offences under Sections 8(c), 22(c), 23(c), 29 of Narcotic Drugs and Psychotropic Substances, 1985 (NDPS Act).

2. As per the broad allegations and averments appearing in the

complaint, a secret information was received with the vigilance section of CISF on 09.03.2023, that one Indian lady, intending to travel from Delhi to Doha by Qatar Airlines via Flight No. QR 4781, would come to Airport with huge quantity of narcotics.

3. The information was shared with senior officers and a team was

constituted by NCB and as per information, Ms. Syeeda Abida i.e. applicant

BAIL APPLN. 1071/2026 1 herein was detained at gate No.5 of Departure Area of IGI Airport.

4. The information was shared with her and search was carried out which

revealed 2.39 kg of contraband suspected to be Amphetamine. The requisite investigation was carried out and documentation was done.

5. Her statement was also recorded.

6. In her statement, she claimed that she had got a proposal of marriage

through Shaadi.com from one Mohd. Mustaq who was residing in California, USA. Mohd. Mustaq claimed that he was from Mysore, India but born and brought up in California, USA and was 39 year old widower. The applicant was, earlier, married but her husband had passed away and, therefore, they came in contact of each other through the abovesaid matrimonial website. According to her, she never met him ever and as per his directions, she travelled from Bangalore to Delhi and at Delhi, she had collected one bag from Janak Puri. As per the abovesaid statement recorded under Section 67 of NDPS Act, she also revealed that she knew as to what was contained in the abovesaid bag. She also stated that her mobile was containing all the details, including the chats which she had with him and that her mobile also had his photographs.

7. The investigation qua such other person is still, reportedly, pending.

8. Fact, however, remains that with respect to the applicant herein, the

charges have been ascertained and the case is at the stage of trial.

9. There are in all 18 witnesses and so far, 3 witnesses have been

examined.

10. The applicant is stated to be in custody for more than 3 years.

11. It is submitted that though the statement under Section 67 NDPS Act

mentions that the applicant knew what was contained in the bag in question,

BAIL APPLN. 1071/2026 2 the applicant never made any such statement. According to learned counsel for the applicant, she is rather a victim of circumstances and said Mustaq Mohd. has made a fool of her.

12. It is argued that though, the bag was handed over to her but it was given

with a direction that it contained certain valuables. She never opened the same and was asked to hand over the same to the concerned recipient, when she was to land in Doha. Believing him, the applicant never opened the abovesaid bag. Had she opened the same, she would not have, at all, carried the bag.

13. Learned counsel for the applicant submits that during investigation, a

clone of her mobile device was prepared and was duly scrutinized by the Investigating Agency and various chats would indicate that she was, merely, communicating with the abovesaid person in utter good faith and never anticipated that she would be made to carry a contraband from India to abroad. Simultaneously, it is also contended that there is grave violation of the established procedure as at the alleged time of seizure, no photography or videography was carried out. Learned counsel for the applicant submits that the Court is required to strike a balance with respect to the fundamental right as enshrined under Article 21 of Constitution of India.

14. The present case concerns commercial quantity of contraband and, as

per Section 37 of NDPS Act, twin restrictions on grant of bail will be applicable. However, Honble Supreme Court has, on numerous occasions, emphasized that prolonged incarceration at pre-trial stage, even in cases involving commercial quantity of contraband, would violate Article 21 of the Constitution of India. Reference be made to Mohd. Muslim v. State (NCT of Delhi): (2023) 18 SCC 166, Dheeraj Kumar Shukla v. State of Uttar Pradesh: 2023 SCC OnLine SC 918, and Rabi Prakash v. State of Odisha: 2023 SCC

BAIL APPLN. 1071/2026 3 OnLine SC 1109 and Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India and Ors.: (1994) 6 SCC 731. Moreover, the extent of assessment required under Section 37 of NDPS Act is restricted to only a prima facie assessment and the Court is not required to come to a conclusion vis--vis guilt of the accused beyond reasonable doubt

15. Learned counsel for the applicant submits that there is no likelihood of

trial getting completed in near future and there is a serious question mark whether the possession, in the present circumstances, can be said to be conscious one or not.

16. All such contentions have been refuted by learned counsel for NCB and

they submit that if such story was actually true, she should have mentioned the same when her statement was being recorded under Section 67 of NDPS.

17. Admittedly, at the time of the seizure, which took place at a public

place, no videography or photography was done. In Bantu vs. State Govt. of NCT of Delhi: 2024 SCC OnLine Del 4671, this Court has held that even prior to the abovesaid requirements being introduced in

Bharatiya Nagarik Suraksha Sanhita, 2023, such aspect would be a relevant factor, even at the stage of grant of bail.

18. The relevant observations of the abovesaid judgment read as under:-

72. Almost all individuals carry a mobile phone compatible for videography these days. From the above cases, it is clear that it is open for the prosecution to furnish reasons to explain and justify the absence of videography and photography in a case. Mere absence of videography and photography of the recovery does not nullify the case of the prosecution, however, the same can in some circumstances be sufficient to create a doubt as to the veracity of the prosecution's case.

73. The Hon'ble Apex Court, in a catena of judgments has held that the more

severe the punishment, greater has to be the care taken to ensure that all the safeguards provided in the statute are scrupulously followed.

74. While a little play in the joint has to be afforded to investigating agencies

to enable them to discharge their duties, the authorities also have to be held

accountable to prevent abuse of law. In cases where the factum of recovery of the contraband is supported only by official witnesses, lack of videography and photography, especially in the absence of independent witnesses, casts a doubt on the recovery of the contraband, unless the same is justified by cogent reasons.

75. As already noted above, in the case of absence of independent witnesses,

it is to be seen whether any prejudice is caused to the accused person and testimonies of the police officials can be believed even without corroboration if the same is found to be credible. This Court is of the opinion that the same rationale would extend to cases where there is no photography and videography as well, specially when the same has been deliberated and commented upon by Courts on numerious occasions.

76. The sufficiency of the explanation, if any, is to be tested during the

course of the trial after the prosecution has led its evidence, however, in the opinion of this Court, the absence of any independent evidence to support recovery (presence of public witnesses, videography or photography) is a relevant factor while considering applications for grant of bail as the same casts a shadow over the very fulcrum of the case.

19. The abovesaid aspect was further echoed by Coordinate Bench in

Sunday Okeke Ugwuoke v. State of NCT of Delhi (in Bail Appln. No.1939/2025; DoD 02.12.2025), which read as under:- 16. It is the case of the prosecution that the said raid was conducted during daylight hours i.e. around 05.00 - 05.30 P.M. in a public place. Despite this, no public witnesses have joined nor any cogent explanation has been offered for the same. While the absence of independent witnesses may not be fatal to the case of the prosecution, it impacts the transparency and reliability of the search and seizure process, particularly at the stage of bail, where the Court must assess whether a prima facie case has been made out against the accused. Reference in this regard may be had to the decision of the Coordinate Bench of this Court in Beneth Chukuwuddi (supra) as well as Bantu v. State Government of NCT of Delhi 5 . Likewise, Honble Supreme Court in Shafhi Mohd. v. State of H.P.6 has also emphasised that the video or photographic documentation of a crime scene, serves as a critical safeguard, ensuring transparency and accountability in the handling of evidence, which is evidently missing in the present case. The

following observations from Beneth Chukuwuddi (supra) could beneficially be referred to:

BAIL APPLN. 1071/2026 5 8. It is to be noted that the raiding party, acting on information received on 10th March, 2023, had sufficient time to secure independent witnesses before conducting the raid. However, no reasonable explanation has been provided for this omission. Since the alleged recovery took place in a public area, where securing independent witnesses would not have posed any practical difficulty, this lapse reflects a lack of diligence on the part of the investigating agency. While the absence of independent witnesses may not be fatal to the prosecutions case per se, it does impact the transparency and reliability of the search and seizure process, particularly at the bail stage, where the Court must assess whether a prima facie case has been made out against the accused.

9. This Court in Bantu v. State Government of NCT of Delhi, 7 took

note of the frequent and mechanical explanations offered for the non-joinder of independent witnesses in cases involving the seizure of contraband. It was observed that the absence of independent witnesses, especially in crowded public places, warrants careful judicial scrutiny. This practice undermines the transparency of the seizure procedure and weakens the evidentiary value of the recovery. In the present case, the failure to associate independent witnesses, despite the raid occurring in a public location, indicates a lapse in the search process. While such lapses do not, by themselves, render the recovery invalid, they diminish the evidentiary value of the seizure and introduce reasonable doubt about the integrity of the prosecutions case, which becomes particularly relevant in cases under the NDPS Act, where strict compliance with procedural safeguards is imperative given the severe consequences involved. xxx xxx xxx

11. The Supreme Court, in the case of Shafhi Mohd. v. State of H.P.8

emphasised that the video or photographic documentation of a crime scene, serves as a critical safeguard, ensuring transparency and accountability in the handling of evidence. Further, in Bantu, this Court observed that in instances where videography or photography has not been undertaken, the prosecution can provide clear and valid justifications for such omissions. These judicial observations were made even prior to the enactment of the mandatory videography and photography requirements under the BNSS, illustrating that the Court has recognized the vital role of such documentation in ensuring the fair administration of justice. xxx xxx xxx

19. Additionally, it is pertinent to note that the Applicant has been in

custody for 2 years. Although the chargesheet has been filed, the charges are yet to be framed and there is no indication that the trial will conclude in the foreseeable future. 20. The right to life and personal liberty, enshrined under Article 21 of the Constitution of

BAIL APPLN. 1071/2026 6 India, 1950, cannot be rendered nugatory by unwarranted delays in the judicial process. The prolonged incarceration undermines the fundamental right to personal liberty. The extended period of custody, combined with the delay in trial, justifies the Applicants plea for conditional liberty through the grant of bail, thereby balancing the rights of the accused with the requirements of justice. (emphasis supplied)

20. Learned counsel for applicant states that he is conscious about the

recent pronouncement of the Honble Supreme Court i.e. State of Punjab vs. Sukhwinder Singh @Gora: 2026 INC 411 but supplements even in that case, Honble Supreme Court observed that both such rights i.e.

Section 37 of NDPS Act and the one contained under Article 21 of the Constitution of India have to be read harmoniously and not in juxtaposition. He contends that while referring to the abovesaid judgment, Coordinate Bench of this Court i.e. Arinze Hillary Ali v. State of NCT of Delhi (In Bail Appln. No.1022/2026; DoD 27.04.2026), observed that all the factors must be considered holistically and while, applying the test under Section 37 of NDPS Act, it is to be ensured that the constitutional guarantee enriched under Article 21 of the Constitution is not eclipsed.

21. It will, however, not be appropriate for this Court to make any firm

observation with respect to the fact whether the accused is, in fact, a victim or was a wiling carrier. The abovesaid aspect would become clearer only when there is a comprehensive trial.

22. Fact, however, remains that at the time of seizure, taking place at a

public place like Airport, respondent should have ensured that seizure proceedings were duly photographed and videographed. Such omission cannot be brushed aside casually.

23. Moreover, this Court also cannot disregard the fact that applicant is a

BAIL APPLN. 1071/2026 7 lady, with no prior antecedents.

24. Keeping in mind the overall facts of the case, this Court is of the view

that applicant has been able to make out a case for releasing her on bail. She is accordingly admitted bail on her furnishing a personal bond for a sum of INR 50,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:- a) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper

with the evidence of the case, in any manner whatsoever; b) The applicant shall under no circumstance leave the country without the permission of the Trial Court; c) The applicant shall appear before the Trial Court as and when directed; d) The applicant shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO; e) The applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

25. The application is disposed of.

26. Pending application also stands disposed of.

27. A copy of this order be immediately sent to the learned Trial Court and

Jail Superintendent for information and necessary compliance.

MANOJ JAIN, J

APRIL 30, 2026/ss/sa

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