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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 05th November, 2026***

\# **CNR No. DLHC010481862026**

\+ BAIL APPLN. 4249/2026, CRL.M.A. 31359/2026, CRL.M.A. 31360/2026 & CRL.M.(BAIL) 1912/2026

PUSHKAR PANDEY .....Petitioner

Through: Ms. Akansha Vidhyarthi, Mr. Keshav Dwivedi and Mr. Vaibhav Srivastava, Advs.
Mob: 8887657989
Email: akanshavidyarthi1996@gmail.com

versus

GOVT OF NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for the State
Mob: 9871349009
Mr. Mukesh Kumar, SI, PS Anti Narcotics Squad/Outer District

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. *(Oral):*

1. The present application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), on behalf of the petitioner, i.e., Pushkar Pandey, S/o Premnarayan Pandey, seeking grant of anticipatory bail in connection with the First Information Report ("FIR") being *FIR No. 160/2026* dated 23rd March, 2026, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), at

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Police Station ("PS") Sultanpuri, Outer District, Delhi.

2. The case being *SC 397/2026*, arising out of *FIR No. 160/2026*, is pending adjudication before the Additional Sessions Judge ("ASJ") (Special Judge-NDPS), North West, Rohini Court, and is presently at the stage of prosecution evidence.

3. This Court is informed that the petitioner had earlier filed an application before the Special Court seeking anticipating bail, however, the same was dismissed *vide* order dated 07th April, 2026, passed in *Bail Matters 707/2026*.

4. Learned Additional Public Prosecutor ("APP") for the State has handed over to this Court a Status Report dated 28th October, 2026, which is taken on record.

5. The case of the prosecution, as culled out from Status Report and the other material on record, is as follows:

5.1. On 23rd March, 2026, at about 04:20 PM, secret information was received at the office of the Anti-Narcotics Squad, Outer District, Delhi, to the effect that one Omprakash, who was allegedly involved in supplying cocaine and smack in Delhi NCR would arrive on a motorcycle bearing registration No. *UP 32 QV 5979* in the area of Sultanpuri, Delhi, between 11:00 PM and 12:00 AM, and could be apprehended if a raid was conducted. Acting on the said information, a raiding team was constituted.

5.2. At about 12:00 AM, a person wearing a blue jacket was spotted arriving on the said motorcycle. Upon being pointed out by the secret informer, he was apprehended by the raiding team and was identified as Omprakash Maurya.

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5.3. During the personal search of Omprakash Maurya, two transparent polythene packets were recovered from him, one containing a white-coloured substance and the other a pink-coloured substance.

5.4. Upon examination by the Forensic Science Laboratory ("FSL"), the white-coloured substance was found to weigh 04 grams and was identified as cocaine, while the pink-coloured substance was found to weigh 20 grams and was identified as smack.

5.5. Consequently, the present FIR came to be registered at PS Sultanpuri, Outer District, Delhi, and further investigation was carried out, pursuant to which Omprakash Maurya was arrested.

5.6. During interrogation, Omprakash Maurya disclosed that he has been working with two persons, namely Vivek and Jay, for approximately three months, and that, on the instructions of one Dharmender, he transferred the money collected from the sale of smack and cocaine into the bank account of the petitioner herein.

5.7. As per further investigation, it emerged that Dharmender allegedly procured cocaine and smack and supplied the same to Omprakash Maurya and Vivek, who in turn, delivered the narcotic substances in Delhi NCR, at the behest of Dharmender.

5.8. Thereafter, on 25th March, 2026, and 27th May, 2026, notices under Section 67 of the NDPS Act were served upon the petitioner.

6. In support of the present application, learned counsel appearing for the petitioner has made the following submissions:

6.1. The petitioner is 24-year-old resident of Maharajganj, Uttar Pradesh, preparing for competitive examinations and having no criminal antecedents.

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6.2. The entire case of the prosecution against the petitioner rests solely on the recovery made from one accused.

6.3. The petitioner has not been named in the FIR and no contraband, narcotic drug, psychotropic substance or other incriminating material has been recovered from his possession.

6.4. The petitioner does not have any connection with the alleged recovery of the contraband made from the accused, Omprakash Maurya.

6.5. The petitioner has been falsely implicated on the basis of certain monetary transactions with the co-accused, Dharmender, who has been known to the petitioner since childhood and resides in a village near that of the petitioner. The said transactions were undertaken at the request of Dharmender, on the representation that the amounts would be returned with interest.

6.6. There is no material to show that any amount was paid as consideration for, or advanced to finance any narcotic substance.

6.7. The alleged recovery from the co-accused, Omprakash Maurya, is of an intermediate quantity, and thus the rigours of Section 37 of the NDPS Act do not apply. Further, he has been granted regular bail by the Special Court *vide* order dated 23rd July, 2026, passed in *SC 397/2026*.

7. *Per contra*, learned Additional Public Prosecutor ("APP") for the State opposes the present application on the following grounds:

7.1. The investigation has revealed multiple financial transactions in the bank accounts of the petitioner with the other co-accused persons, indicating his alleged involvement in the drug-supply network.

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7.2. It has further been revealed that the proceeds allegedly generated from the sale of narcotic substances were transferred to the bank account of the petitioner herein.

7.3. The Call Detail Records ("CDRs") show that 585 calls were exchanged between the co-accused, Dharmender, and the petitioner herein.

7.4. Subsequently, Non-Bailable Warrants ("NBWs") were issued against the petitioner by the Special Judge on 18th September, 2026. However, the petitioner remains absconding and has not been apprehended despite the steps taken by the investigating agency.

8. In response, learned counsel appearing for the petitioner submits that the inability of the petitioner to join the investigation pursuant to the notice issued under Section 67 of the NDPS Act was not occasioned by any intention to evade the investigation, but was due to certain family exigencies. She, however, submits that the petitioner is ready to join the investigation and cooperate with the same.

9. This Court has heard learned counsel for the applicant and learned APP for the State.

10. Before adverting to the facts of the case at hand, it is imperative to allude to the judgment of this Court in ***Deepak Nagiya Versus State (NCT of Delhi), 2023 SCC OnLine Del 5641***, wherein, relying on the judgment of the Supreme Court in ***State (by NCB) Bengaluru Versus Pallubid Ahmad Armutta, (2022) 12 SCC 633***, and a judgment of this Court in ***Phundreimayum Yas Khan Versus State (NCT of Delhi), 2023 SCC OnLine Del 135***, it was held that insofar, as the CDRs are concerned, the evidentiary value of the same can be seen at the stage of trial and cannot be

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a ground to deny anticipatory bail.

11. This Court further affords attention to the order dated 11th May, 2026, passed by the Co-ordinate Bench of this Court in ***Salman Khan Versus State of NCT of Delhi, BAIL APPLN. 1427/2026***, whereby, the following was held:

> *"xxx xxx xxx*
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> *13. In fact, the Hon'ble, Supreme Court in Balwinder Singh (Binda) vs. Narcotic Control Bureau; (2024) 13 SCC 734 has held that whence there has to be a recovery/ possession from the accused who has been implicated based upon the disclosure statement of a co-accused person then there can be a sufficient reason to establish a link thereof.* ***In essence, there has to be something substantive/ more than concrete in addition to mere disclosure statement of a co-accused person showing nexus of the said accused with the activates of illicit trafficking of psychotropic substances****.*
>
> *xxx xxx xxx*
>
> ***15. Though the investigation herein also reveals that there were/ are monetary transaction between the co-accused person and the applicant as also there are CDRs showing his telephonic connectivity with the co-accused persons, however, neither of them, per se, indicate anything concrete enough for this Court to come to a conclusion that the applicant was having any (direct) link in the activates of illicit trafficking of psychotropic substances and/ or with the other co-accused persons as mere contact with them is not sufficient to conclude his involvement. Mere having some monetary transaction and/ or having CDR connectivity with the co-accused persons with no (substantive) corroboration in the present case, thus, pale into insignificance. At the end of the day, there is no direct nexus established as yet. They gain much significance as there is no recovery of any psychotropic substances from his end, and that too despite the disclosure statement made by a co-accused person.***
>
> ***16. Therefore, it is difficult for this Court to conclude that the applicant is directly involved with the total quantity seized and***

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put him to the rigours/ bar as contemplated under of Section 37 of the NDPS Act.

xxx xxx xxx"

(Emphasis Supplied)

12. In the present case, indisputably, there is no recovery of any narcotic substance, at this stage, from the petitioner. The petitioner has been made an accused based on the disclosure statement of the co-accused, Omprakash Maurya, who has since been enlarged on regular bail. Further, the evaluation of the financial records and the CDRs is a matter of trial and cannot be a ground to deny anticipatory bail.

13. Therefore, it is difficult for this Court to conclude that the petitioner is directly involved with the recovery made from the co-accused, Omprakash Maurya, and put him to the rigours as contemplated under of Section 37 of the NDPS Act.

14. The apprehension of the State that the petitioner may influence witnesses or indulge in any similar kind of offence can be addressed by imposing appropriate conditions.

15. As such, in the case of arrest of the petitioner, in connection with *FIR No. 160/2026* dated 23rd March, 2026, registered at PS Sultanpuri, Outer District, Delhi, he shall be released on bail subject to him furnishing a bond in a sum of Rs. 25,000/-, along with one surety of the like amount, subject to the satisfaction of the Trial Court and further subject to the following conditions:

i. The petitioner shall ordinarily reside at the address as mentioned in the Memo of Parties of the present application and shall not leave the same without prior permission of the concerned Court.

ii. The petitioner shall surrender his Passport, if any, to the IO.

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iii. The petitioner shall join and participate in the investigation as and when called by the IO.

iv. The petitioner shall provide to the concerned IO all his mobile numbers, which shall be kept in working condition at all times.

v. The petitioner shall not indulge in any criminal activity and shall not contact any of the prosecution witnesses, or tamper with the evidence of the case.

16. Accordingly, the present petition is allowed in the aforesaid terms.

17. The pending application also stands disposed of.

18. Needless to state, the observations made hereinabove are only tentative in nature and will not come in the way of any subsequent proceedings, which shall be dealt on their own merits.

MINI PUSHKARNA, J

NOVEMBER 5, 2026/SK

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