



1 MCRC-18468-2025  
**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH  
ON THE 17<sup>th</sup> OF MAY, 2025**

**MISC. CRIMINAL CASE No. 18468 of 2025**

***PARAS BASOD @ CHOTA PARAS  
Versus  
THE STATE OF MADHYA PRADESH***

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**Appearance:**

Shri Amit Lahoti - Advocate for the applicant.

Shri Romil Verma - Govt. Advocate for the respondent/State.  
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**ORDER**

Heard with the aid of case diary.

2. This first bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (equivalent to Section 439 of Cr.P.C.) has been filed by the applicant **Paras Basod** for grant of regular bail, who has been arrested on 17.10.2024 in connection with Crime No.103/2024, date (not mentioned) registered at Police Station Sarafa, District Indore (M.P.) for commission of offences under Section 8, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act 1985.

3. As per prosecution story, on 16.10.2024, 506 grams of MD drugs is said to have been recovered from the back seat Creta Car bearing Registration No.MP 09 WE 6316 in which the present applicant along with co-accused was travelling. Accordingly, offence has been registered.

4. It is contended by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The said substance has been seized from the car, more precisely from the back seat of the car, therefore no



personal search of the present applicant was conducted by the concerned officer at the place of incident. It is further submitted that there is no evidence on record to corroborate the fact that the contraband was seized from the conscious and exclusive possession of the applicant and to further implicate the applicant under section 22 of NDPS Act. Counsel also submitted that in order to make the possession illicit, there must be a conscious possession. There was an inordinate delay caused at the instance of the investigating officer to produce the seized contraband before the Learned Magistrate. It appears from the facts in hand, the substance was seized on 17.10.2024 and later after an efflux of 19 days it was produced before the Learned magistrate on 05.11.2024. No reasonable explanation for the delay has been given by the prosecution, coupled with the fact that there is a high chance of tampering the seized substance and it cannot be ruled out. Such a delay caused by the investigating officer further proves to be fatal for the case of prosecution.

5. Learned counsel referring to the judgment of Hon'ble Supreme Court in the case of **Union of India vs. Mohanial (2016) 3 SCC 379 decided on 28.01.2016** submitted that the application to the Magistrate for sampling has to be moved immediately after seizure. In the present case, the application under section 52A for drawing of sample was made after 19 days. The above-act clearly amounts to non-compliance of the section 52-A of NDPS Act. Counsel also placed reliance upon the judgment of Hon'ble Apex Court in the case of “*Yousuf Alias Asif Vs. State*” (*Cri. Appeal No.3191 of 2023*) and “*Simranjit Singh Vs. State of Punjab (Cri. Appeal No.1443/2023)*” wherein it has been held that, ‘a holistic reading of Section 52-A makes is abundantly clear that, it is the procedure prescribed under Section 52-A, which creates primary evidence for consideration by the Learned Trial Court in NDPS case, and non-compliance of the same has been held to be



fatal in such cases. Counsel also placed reliance upon the judgment dated 18.05.2023 passed in bail application No.253/2023 by the High Court of Delhi in the case of "*Kashif vs. NCB* " in support of his arguments. Thus, in the present matter, the prosecution has also failed to make due compliance of Section 52-A of NDPS Act. As a result of which, the entire search and seizure is vitiated, which also calls for grant of bail to the present applicant. The applicant is in custody since 17.10.2024. Conclusion of trial will take considerable long time. Under these circumstances, counsel prays for grant of bail to the applicant.

5. Learned Government Advocate appearing for the State has opposed the application and prays for its rejection by submitting that any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone. Counsel also submitted that looking to the huge quantity of contraband seized no case for grant of bail is made out hence prayed for rejection of the same.

6. I have heard the learned counsel for the parties and perused the record.

7. After considering all the aspects and looking to the facts and circumstances of the case, rival submissions of the counsel, quantity of the contraband seized so also the law laid down by Hon'ble Supreme Court in the case of *Narcotics Control Bureau Vs. Kashif (2024 SCC Online SC 3848)* wherein in para 39 (v) and (vi) it has been held as under:

39 The upshot of the above discussion may be summarized as under:

(iv) Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.



(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

(vi) Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act.

8. In view of the aforesaid law laid down by Hon'ble Apex Court this Court is of the view mere lapse of compliance of Section 52-A NDPS Act would not entitle the applicant to be released on bail, hence no case is made out for grant of bail to the applicant.

Accordingly, M.Cr.C. No.18468/2025 is dismissed as being without merits.

**(PREM NARAYAN SINGH)**  
**JUDGE**