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

\# **CNR No. DLHC010507772026**

\+ CRL.REV.P. 629/2026, CRL.M.A. 33143/2026, CRL.M.A. 33141/2026 & CRL.M.A. 33142/2026

STATE NCT OF DELHI .....Petitioner

Through: Mr. Aman Ushman, APP for the State.

versus

SUNIL ALIAS TINKU .....Respondent

Through: Mr. UA Khan, Mr. Tushar Upadhyaya & Mr. Ankit Choudhary, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 27.10.2026

1. The State has preferred the present revision petition challenging the order dated 13th October, 2026, passed by the Additional Sessions Judge-03, Special Judge (NDPS), Shahdara District, Karkardooma Courts, Delhi, declining its request for four days' police custody of the Respondent, Sunil @ Tinku, in FIR No. 540/2026, registered at P.S. Seemapuri under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The FIR was registered following the recovery of approximately 281.74 grams of heroin from co-accused Rocky on 3rd September, 2026. During interrogation, Rocky allegedly disclosed that he had procured about

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150 grams of the contraband from the Respondent and the remaining quantity from Pradeep @ Chintu. The State also relies upon call detail records indicating regular communication between Rocky and the Respondent, along with certain mobile-location particulars. The Respondent surrendered before the Special Judge on 13th October, 2026. The Investigating Officer was permitted to interrogate him, following which he was formally arrested. The subsequent application seeking police custody was declined by the impugned order, and the Respondent was remanded to judicial custody.

3. Mr. Aman Ushman, APP for the State, submits that police remand is necessary to verify the Respondent's alleged role in the supply of contraband, trace its source in the Bareilly/Badaun region, ascertain the involvement of other persons, including Pradeep @ Chintu and Anwar, and confront the Respondent with the electronic records. Reliance is also placed upon the earlier rejection of anticipatory bail, the issuance of non-bailable warrants and the Respondent's alleged failure to cooperate during interrogation. Counsel for the Respondent, on the other hand, submits that Respondent's implication rests principally upon Rocky's disclosure statement and their telephonic communication, which is explained by their relationship. It is urged that no independent material connecting the Respondent with the alleged supply has been produced.

4. The question is whether the Special Judge's refusal to authorise police custody calls for interference in revision. Under Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023, police custody is a matter of judicial satisfaction, not an inevitable consequence of arrest. In

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Pogadadabnda Revathi and Another v. State of Telangana[1], the Supreme Court has held that a reasoned decision granting or declining police custody should ordinarily not be disturbed in revision unless gross perversity is demonstrated.

5. Having examined the impugned order and the grounds urged by the State, this Court finds no such infirmity. The State is correct that an investigating agency need not establish the accused's guilt before seeking police custody. It must, however, demonstrate why such custody is necessary for the proposed investigation. Here, apart from Rocky's disclosure, the principal material relied upon consists of telephonic communication between the two. Their familial relationship provides a plausible explanation for such contact, although its actual nature remains a matter for investigation. No material concerning the contents of their conversations, financial dealings or any transaction involving the recovered contraband was shown to the Special Judge. The proposed examination of call records and location details, inquiries concerning other suspects and searches at identified premises are legitimate investigative steps. The remand application, however, does not adequately explain why these steps require the Respondent's physical custody with the police.

6. The Investigating Officer had already been permitted to interrogate the Respondent before seeking remand. The assertion that the Respondent failed to provide satisfactory answers does not, by itself, establish non-cooperation or justify further custodial interrogation. The Supreme Court reiterated this distinction in ***Jugraj Singh v. State of Punjab***[2]. Equally, the

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[1] 2026 INSC 75

[2] Criminal Appeal No. 3640/2025, decided on 20th August, 2025

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earlier rejection of anticipatory bail and the issuance of non-bailable warrants do not dispense with the requirement of independently establishing the necessity of police custody. The subsequent anticipatory bail application before this Court was withdrawn, without any adjudication on its merits.

7. The Special Judge considered the material relied upon by the investigating agency and the explanation offered for the telephonic contact before declining police custody. The reasons, though brief, are relevant to the decision and disclose no perversity or material irregularity. The State has not demonstrated that any material circumstance was overlooked or that the discretion was exercised on an untenable basis. There is, therefore, no ground for this Court to substitute its assessment for that of the Special Judge.

8. Accordingly, the present revision petition is dismissed. The investigation shall continue in accordance with law. Nothing observed herein shall be construed as an expression of opinion on the Respondent's involvement in the alleged offence or affect the independent consideration of any pending bail application.

9. Pending applications also stand disposed of.

SANJEEV NARULA, J

OCTOBER 27, 2026/*ng*

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