



constituted, which took position at Bhogal flyover. As informed by the secret informer, a person named Akash driving a scooty with a lady pillion, Mariyam were apprehended and were found to be carrying a bag from which 4.093 kg and 6.115 kg *ganja* was recovered. On the basis of interrogation of the accused persons, the police reached three more persons namely Masoom, Chandan and Sabir Ali @ Sikku (*the present accused/applicant*). The accused Chandan has not been arrested till date. The accused Masoom was granted bail by a coordinate bench of this court on 10.10.2025. The accused/applicant is in jail since 26.01.2025. The present accused/applicant is husband of accused Mariyam.

3. In the above backdrop, learned counsel for accused/applicant submits that there is nothing incriminating against the accused/applicant that would justify his further incarceration. It is contended that the only material against the accused/applicant is the alleged disclosure statement of Akash and Mariyam, which is not a substantive evidence and nothing incriminating was recovered from the accused/applicant.

4. Learned APP argues that there is enough evidence against the accused/applicant that would justify his incarceration. It is for placing on record the said alleged evidence that the matter was passed over today in pre-lunch session and the same has now been filed by way of updated status report. The said evidence against the accused/applicant is in the form of printout of screenshots of handwritten notes exchanged between the



2026:DHC:179



accused/applicant and Mariyam. It is contended on behalf of prosecution that the said screenshots were taken from mobile phone of the accused/applicant during the period when he was in police custody. Another evidence against the accused/applicant on which the prosecution relies is Call Detail Records of telephonic connectivity between the accused/applicant and the remaining accused persons. No other piece of evidence has been referred to by the learned APP during arguments.

5. Learned counsel for accused/applicant submits that even the so called evidence, brought on record by way of updated status report is completely worthless as the same does not refer to any contraband or any other illegal activity. Learned counsel for accused/applicant has also taken me through the detailed order dated 10.10.2025 of the coordinate bench, whereby the accused Masoom was granted bail.

6. Of course at the stage of considering bail application, the court cannot meticulously examine the evidence. But there has to be at least some admissible incriminating evidence that can justify incarceration of an accused. In the present case, as mentioned above, admittedly nothing incriminating was recovered from or at the instance of the accused/applicant. The only evidence against the accused/applicant is the printouts of screenshots taken from mobile phone of the accused/applicant when he was in police custody.



7. At this stage, learned counsel for accused/applicant claims and the IO affirms that the said screenshots are actually not so. On being again called upon, it is now in the course of dictation of the order that the IO has explained that according to him, photographs of certain handwritten pages were clicked by the accused/applicant and those photographs were in the mobile phone of the accused/applicant and from that mobile phone the IO took photographs and thereafter printouts have been filed with the status report.

8. As discussed in the pre-lunch session today, the said printouts *prima facie* appear unnatural, to the extent that there is a handwritten note at the top of the paper: “*ganja ka kaam Sikku ke saath jaa rahe the*”. One wonders why would an accused write this endorsement of self incrimination. Below that note appear to be various dates against which it is written: “*kaam par gaya tha*” and “*kaam par se aaya tha*”. This handwritten note appears to be some attendance copy of some work. There is not even a whisper of any contraband in these notes.

9. However, the said printouts also include certain photographs depicting material alleged to be *ganja*. It is contended by the IO that those photographs were transmitted by the accused/applicant to co-accused Chandan. As mentioned above, Chandan remains not arrested. Besides, only from those photographs it cannot be inferred that the same depict *ganja*.



2026:DHC:179



10. Further, as also discussed in pre-lunch session, the IO did not retain mirror image of the phone from which it could be ascertained with the help of metadata as to when the said pictures were clicked. Another mode to verify the genuineness of this evidence could be the Case Diary. But despite pass over, the IO has not brought the same. Therefore, presently there is nothing to lend authenticity to those notes to the extent of justifying further incarceration of the accused/applicant.

11. Then comes the Call Detail Records. Those records would at the most establish telephonic connectivity between the accused/applicant and others. In the absence of any material showing as to what was conversed in those phone calls, imputing criminality on the accused/applicant to justify his incarceration would not be appropriate. In this regard, the learned coordinate bench, while granting bail to the accused Masoom referred to a judgment of another coordinate bench of this court in the case of **Dalip Singh vs State**, 2019 SCC OnLine Del 6494. It is nobody's case that rigors of Section 37 of NDPS Act would operate against the accused/applicant. For, it is nobody's case that any contraband was recovered from him.

12. In nutshell, there is no cogent material collected during investigation which would justify further incarceration of the accused/applicant.

13. Therefore, the Bail Application is allowed and the accused/applicant is directed to be released on bail, subject to his furnishing a personal bond in



2026:DHC:179



the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the trial court. Accompanying application also stands disposed of.

14. Copy of this order be sent to the concerned Jail Superintendent for being immediately conveyed to the accused/applicant.

**GIRISH
KATHPALIA**

Digitally signed by GIRISH KATHPALIA
DN: c=IN, o=HIGH COURT OF DELHI,
2.5.4.20=8401dd889b27a77b2f65ffffe4afec4
5569af3962c6fb4835d435f97626cacca,
ou=HIGH COURT OF DELHI,CID - 7047638,
postalCode=110003, st=Delhi,
serialNumber=d3e86796451ec45c07b5d155
70996b40f80cbd2eee60402c487965ff801e2
6fa, cn=GIRISH KATHPALIA
Date: 2026.01.09 17:32:16 -08'00'

**GIRISH KATHPALIA
(JUDGE)**

JANUARY 9, 2026/ry