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

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Judgment delivered on: 14.12.2018

+ BAIL APPLN. 2573/2018

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..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr.Vishal Raj Sehijpal, Adv.

For the Respondent : Ms. Kusum Dhalla, Addl. PP for the State with
ASI Jogendra

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

14.12.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 6/2018 under Section 15 of the Narcotic Drugs Psychotropic Substances Act, 1985 (NDPS Act), Police Station Crime Branch.

2. The allegations in the FIR are that secret information was received that someone would be coming to supply *Poppy Straw*. A raiding party was prepared. When the raiding party reached the spot, it found the petitioner sitting on a gunny bag. When he was intercepted

and searched the gunny bag was found to contain *Poppy Straw* weighing 23.70 Kg..

3. The commercial quantity is 50 Kg. small quantity being 1 kg. As per the prosecution, larger than small and less than commercial quantity have been recovered from the petitioner.

4. Learned counsel for the petitioner submits that search and seizure is suspect as the mandatory procedure under Section 50 of NDPS Act has not been complied. Further he submits that the petitioner has been falsely implicated. It is contended that the petitioner has clean antecedents and there is no involvement of the petitioner in any other case.

5. Learned counsel for the petitioner relied on the decision of the Supreme Court in '*Birbal Prasad @ Birbal Prasad Shah@Birbal Prasad Sao@Birbal Sah Vs. State of Bihar*'. 2018 (2) LRC 83 (SC) wherein the Supreme Court was inclined to grant bail in a case where non-commercial quantity was recovered and the accused was not involved in other case.

6. Investigation is complete and the status report has been filed. Status report confirms that the charge sheet has already been filed. The petitioner has been in judicial custody since 03.01.2018.

7. Learned Addl. PP, under instruction from the Investigating Officer, confirms that there is no involvement of the petitioner in any

other case.

8. Keeping in view of the facts and circumstances of the case and without commenting on the merits of the case and also on perusal of the record, I am satisfied that the petitioner has made out a case for grant of regular bail.

9. Accordingly, on petitioner furnishing a bail bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Trial Court. Petitioner shall be released on bail, if not required in any other case. Petitioner shall not do anything which may prejudice either the trial or the prosecution witnesses.

10. Petition is disposed of in the above terms.

11. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

DECEMBER 14, 2018

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