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

+ **BAIL APPLN. 2902/2019**

SACHIN KUMAR

..... Petitioner

Through: Ms Anu Narula, Advocate for
DHCLAC.

versus

STATE

..... Respondent

Through: Ms Meenakshi Chauhan, APP for
State.

Inspector Deepak K. Malik, Main IO
with ASI Virender, PS Crime Branch.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.12.2019

1. The petitioner has filed the present petition, *inter alia*, praying that he be released on bail in FIR No. 37/2015 under Sections 20/25/29 of the Narcotics, Drugs and Psychotropic Substances Act, 1985 (hereafter 'NDPS Act'), registered with PS Crime Branch.
2. The allegation against the petitioner is that the police received a secret information that a huge quantity of contraband (*Ganja*) would be brought to Delhi in a Honda City car bearing no. DL 4C AH 3266. A trap was laid on 13.03.2015. It is stated that at about 06:00 p.m. on the said date, the petitioner drove a vehicle (Honda City Car) bearing registration no. DL 4C AH 3266 and parked it in front of Jain Santhak Mandir, Inder Puri, Delhi. A search of the vehicle was conducted and it is alleged that two khaki coloured bundles were found lying on the foot rest between the legs of the co-accused (Manjit), who was sitting next to the petitioner; eight bundles were found

lying on the rear seat of the car and; fifty four bundles were found in the trunk of the said car. It is alleged that a total of 125.350 kgs of *Ganja* (Cannabis) was recovered from the possession of the petitioner and the co-accused.

3. The learned counsel appearing for the petitioner states that Section 50 of the NDPS Act was not complied with, as the search was not conducted in the presence of a Gazetted Officer or a Magistrate.

4. He also relies on the order dated 15.10.2019 passed by this Court in ***Lal Babu @ Rajesh @ Raju v. Government of NCT of Delhi: Bail Appln. No. 1766/2019 decided on 15.10.2019***. He submits that this Court had referred to the decision of the Supreme Court in the case of ***Arif Khan @ Agha Khan v. State of Uttarakhand: 2018 AIR (SC) 2123*** and had granted bail to the petitioner therein.

5. The contentions advanced by the petitioner are unmerited. In the first instance, it does not appear that Section 50 of the NDPS Act is applicable to the current case, since the said contraband had been recovered from the said vehicle. For the same reasons, the reliance placed by the learned counsel for the petitioner on the decision in the case of ***Lal Babu @ Rajesh @ Raju*** (*supra*), is misplaced.

6. Section 37(1)(b)(ii) of the NDPS Act clearly mandates that bail can be granted in cases of an offence under the NDPS Act, if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such an offence and that he is not likely to commit any offence while on bail. This Court is unable to find any material to form any *prima facie* view

that the petitioner is innocent of the allegations against him. The fact that the quantity of contraband recovered is fairly large (127.350 kgs) cannot be ignored.

7. In view of the above, this Court is not persuaded to accept this petition. The same is, accordingly, dismissed.

8. Nothing stated in this order shall prejudice the petitioner and the Trial Court shall examine the matter uninfluenced by any observations made herein.

9. This Court is informed that that out of twenty-eight witnesses, thirteen have been examined and fifteen more witnesses are to be examined. The said witnesses are official witnesses. In this view, the Trial Court is requested to complete the trial as expeditiously as possible and preferably, within a period of four months from today.

DECEMBER 11, 2019
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VIBHU BAKHRU, J