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

+ **CRL.M.C. 4787/2024**

NEERAJ KUMAR

..... Petitioner

Through: Ms. Counsel appearance not given

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Laksh Khanna, APP for State with
ASI Virender Singh

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **31.05.2024**

CRL.M.A. 17913/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C. 4787/2024

1. By way of present petition filed under Section 482 Cr.P.C, the petitioner seeks to assail the order dated 24.05.2024 passed by learned Special Judge (NDPS), North, Rohini Courts, Delhi.
2. The learned counsel for the petitioner submits that, although cross-examination of PW-2/ASI Sandeep was conducted on 07.05.2024, however, due to misplacing of the paper containing points relevant for cross examination, the same could not be effectively undertaken.
3. Issue notice.
4. Learned APP for the State accepts notice.



5. Fair trial is the hallmark of criminal procedure. It entails not only the rights of the victims but also the interest of the accused and the society. It is the duty of the criminal court to ensure that fair and proper opportunity is granted to the accused to adduce evidence in his defence, for the just decision of the case. Such adducing of evidence by the accused is a valuable right. In Natasha Singh v. CBI reported as **(2013) 5 SCC 741**, the Supreme Court has observed:-

“16. Fair trial is the main object of criminal procedure, and it is the duty of the court to ensure that such fairness is not hampered or threatened in any manner. Fair trial entails the interests of the accused, the victim and of the society, and therefore, fair trial includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional, as well as a human right. Thus, under no circumstances can a person’s right to fair trial be jeopardized. Adducing evidence in support of the defence is a valuable right. Denial of such a right would amount to the denial of a fair trial. Thus, it is essential that the rules of procedure that have been designed to ensure justice are scrupulously followed, and the court must be zealous in ensuring that there is no breach of the same.”

6. Considering the fact that the cross examination of PW-2 could not be conducted effectively, the denial of the same would greatly prejudice the petitioner. In the interest of justice, this Court is inclined to allow the present petition, and grants only one last opportunity to the petitioner to carry out the cross-examination however, the same shall be subject to the payment of cost of Rs.5,000/- to be deposited with the Delhi State Legal Services Authority (A/c No.: 18580110053263, Bank: UCO BANK, Branch: Rouse Avenue, IFSC: UCBA0003364) within a period of two weeks from today. The trial court shall summon the said witness only for one date and the



cross-examination shall be carried out on the same date. In case for any reason, cross-examination is not carried on the said date, the right to carry out the same shall stand closed.

7. In view of the above, the petition is disposed of.

8. A copy of this order be communicated to the concerned trial court for information.

MANOJ KUMAR OHRI, J

MAY 31, 2024

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