



\$~4

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

+ **BAIL APPLN. 115/2025 and CrI.M.A. 748/2025**

MOHD. GUFRAN

.....Petitioner

Through: Mr.J.P.Singh and Mr.Upendra Yadav,
Advocates

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State
with SI Rajender Singh, ASI Sukhbir
Singh, PS Jahangir Puri

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

%

18.08.2025

1. Claiming himself to be falsely implicated, the applicant herein is before this Court seeking regular bail in FIR bearing no. 0473/2022 dated 10.05.2022, for the alleged offences under Sections 20 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), registered at Police Station Jahangir Puri.
2. Per FIR, the prosecution's case is that on 09.05.2022 at about 07:30 AM, a secret informer conveyed the Narcotics Squad that the applicant/accused, engaged in selling and supplying marijuana, would be travelling that evening on his scooter to deliver marijuana between 09:00–10:00 PM.
 - 2.1 Acting on the directions of the ACP, SI Ashok Kumar organized a raid and reached the designated location. Thereafter, at about 09:20 PM, the applicant arrived on a scooter. On confirmation by the informer that the said person was indeed the applicant, he was intercepted and informed about the search. A notice under Section 50 of the NDPS Act was served upon him.



2.2 It is alleged that 23 kilograms of marijuana were recovered from a black-and-white cloth bag placed on the scooter, while no contraband was found on his person.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would argue on the lines of grounds pleaded in the petition *inter alia* urging as below:-

4.1 Learned counsel for the applicant would contend that the applicant has been falsely implicated in the present case and that no contraband whatsoever was recovered from him. He would argue that the alleged seizure itself is unreliable, as there is clear evidence of tampering. The seizure memo records that the bag containing the contraband was marked as *Mark A*, wrapped in white cloth, and then marked as *Mark B*. However, when the same was produced before the learned Magistrate, the bag in white cloth bore only *Mark A* and not *Mark B*, contrary to the memo. This discrepancy, going to the very root of recovery, renders the alleged seizure wholly unreliable.

4.2 Learned counsel would further argue that there is an unexplained discrepancy in the weight of the alleged contraband (ganja). At seizure it was recorded as 23 kg, whereas before the Magistrate it was found to weigh 23.110 kg. The additional 110 grams remains unexplained, and further, the independent weight of the contents excluding the bag was never ascertained. These infirmities cast grave doubt on the genuineness of the recovery.

4.3 He would also contend that there was non-compliance with the mandatory provisions of Section 52A of the NDPS Act and Standing Order 1/88. The samples, though drawn before the learned Magistrate on



10.05.2022, were deposited in FSL only on 19.05.2022, i.e. after an unexplained delay of nine days, despite the Standing Orders mandating dispatch within 72 hours. Such delay opens the door to tampering and vitiates the sanctity of the samples. It would further be submitted that no proper inventory of the seized contraband was prepared as required under Section 52A(2), inasmuch as mandatory particulars such as description, quality, quantity, mode of packing, marks, and identifying details were not recorded. He would place reliance on ***Union of India v. Bal Mukund(2009) 12 SCC 161, Mohan Lal v. State of Punjab (2018) 17 SCC 627, and Noor Aga v. State of Punjab (2008) 16 SCC 417***, which hold that non-compliance with mandatory safeguards under Section 52A and Standing Orders fatally undermines the prosecution case.

4.4 Learned counsel would further contend that despite the alleged raid being conducted on prior information at a public place, no independent witnesses were joined, no photographs or videography was undertaken, and no notice under Section 100 Cr.P.C. was served. This failure to associate independent witnesses in such circumstances renders the alleged recovery highly doubtful.

4.5 It would also be contended that the applicant has remained in custody since 10.05.2022 and has already undergone 3 years and 3 months in incarceration. Out of 27 prosecution witnesses, only 6 have been examined so far, and the trial is not likely to conclude in the near future. Prolonged incarceration, despite doubtful recovery, infringes Article 21 and conditional liberty must prevail over the statutory bar in Section 37 NDPS Act.

4.6 It would further be contended that the co-accused/Mohit Kumar has already been granted bail *vide* order dated 22.05.2024 passed by the Co-



ordinate Bench of this Court. Further the other co-accused namely Chand Ansari has also been granted bail *vide* order dated 02.04.2024 passed by the Co-ordinate Bench and on the ground of parity alone, the applicant is also entitled to the same relief.

4.7 Finally, learned counsel would submit that investigation is complete and the applicant is no longer required for custodial interrogation and is willing to comply with any conditions imposed by this Court. In view of the doubtful recovery, non-compliance with statutory safeguards, prolonged custody, and parity with co-accused, the applicant deserves to be released on bail.

5. Opposing the aforesaid arguments, learned APP for the State would submit that the applicant had earlier moved regular bail applications before the learned Trial Court on 30.08.2022, 11.10.2022, 17.11.2022, 11.09.2023, 16.07.2024, and 18.12.2024, all of which were dismissed. Thereafter, the applicant also approached coordinate bench of this Court on 02.04.2024, and the said application was dismissed as withdrawn. Learned APP would further point out that the applicant is previously involved in FIR No. 972/2017 under Section 60 of the Excise Act, and FIR No. 973/2017 under Sections 8 and 20 of the NDPS Act.

5.1 Learned APP for the State further submits that the applicant was apprehended along with a bag and a Scooty in his possession. Though no contraband was recovered from his person, the search of the bag placed on the Scooty led to the recovery of 23 kg of Ganja, (above the commercial quantity).

6. I have heard the submissions of both sides and am of the considered view that the applicant deserves to be released on bail during the pendency



of the trial. The petitioner has already remained in custody for a period of 3 years and 3 months, and the progress of the trial has been exceptionally slow with only 6 witnesses being examined so far out of 27 prosecution witnesses. This prolonged pre-trial detention, combined with the sluggish pace of proceedings, are contributory factors in favour of granting bail—particularly when similarly situated under trials have been granted bail by this Court in comparable circumstances in the cases cited by learned counsel for the applicant.

7. As for the apprehension of tampering with evidence, it is pertinent to note that the contraband and other material evidence have already been seized and are securely in the custody of the prosecution, rendering any risk of tampering illusory and/or mere suspicion.

8. Accordingly, the application is allowed. Applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

9. Nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application. In case applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case *vide* instant order.

ARUN MONGA, J

AUGUST 18, 2025/SV