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

+ **BAIL APPLN. 161/2025 & CRL.M.A. 1049/2025**

MAHESH

.....Petitioner

Through: Mr Suraj Prakash Sharma, Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP.
ASI Rajeshwar, PS: Ranhola.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.01.2025

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1. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Section 439 of the Code of Criminal Procedure, 1973), seeking grant of regular bail in FIR No. 834/2024 dated 14th December, 2024 registered at P.S. Ranhola, for the offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985.¹

2. The case of the Prosecution, as per the status report, is as follows:

2.1 On 14th December, 2024 an information *vide* DD No. 120A was received at P.S. Ranhola pertaining to the recovery of a contraband item. Pursuant to the said DD entry, the Applicant was apprehended with one plastic panni in his hand containing a contraband substance.

2.2 During investigation, the Applicant was served notice under Section 50 of the NDPS Act. Efforts were made to secure the participation of a

¹ NDPS Act"



public witness; however, due to time constraints, no public witness was able to join the investigation.

2.3 In the course of investigation, the recovered contraband item was weighed separately, and the weight, inclusive of the plastic bags, was recorded as 1.234 kg. Subsequently, the Applicant was arrested in accordance with Section 57 of the NDPS Act.

2.4 Thereafter, in compliance with Section 52A of the NDPS Act, on 19th December, 2024, sampling was conducted before the Court Tis Hazari Delhi. The sampling order so received was sent to FSL, the results of which are currently awaited.

2.5 Investigation in the matter stands completed, and the case file is being sent to Prosecution branch for scrutiny.

2.6 The Applicant has a prior criminal record, having been involved in offences under the Excise Act, and as such, should not be released on bail.

3. Counsel for the Applicant submits that he has not committed the alleged offence and the purported recovery of the contraband has not been made from his conscious possession. He submits that the Applicant has been falsely implicated, and no recovery of the alleged contraband has been effected from his possession, nor at his instance.

4. The Court has considered the aforementioned contentions. While evaluating a bail application, the Court must consider several factors, including whether there is a *prima facie* case or reasonable grounds to believe the accused has committed the offence, the likelihood of the accused repeating the offence, the nature and seriousness of the accusation, the severity of the potential punishment upon conviction, the risk of the accused absconding or fleeing if granted bail and the reasonable apprehension of witnesses being intimidated by the accused.



5. In the instant matter, the Prosecution has alleged that 1.284 kg of Ganja has been recovered from the Applicant, which quantity falls under the intermediate category as per the NDPS Act. Since the recovered contraband is classified under the intermediate quantity category, the rigours of Section 37 will not be applicable.

6. The Applicant has asserted that he is firmly rooted in India and is a permanent resident of Delhi, thereby mitigating any flight risk.

7. The Applicant has been in custody for around 1.5 months. Investigation in the present case stands concluded, with the chargesheet currently in the process of being filed. As such, the Applicant's presence is no longer required for the purpose of further investigation or custodial interrogation.

8. Moreover, although the Prosecution has highlighted the Applicant's prior involvement in offences under the Excise Act, it is well-established that the mere existence of antecedents cannot serve as the sole grounds for denying bail. The Supreme Court has clarified that, where the accused establishes a strong *prima facie* case, and depending on the specific facts and the duration of pre-trial detention, the presence of previous criminal records may not constitute a valid reason to refuse bail.²

9. In the present case, it is noted that the Applicant is not subject to the stringent conditions outlined in Section 37 of the NDPS Act; there is no flight risk associated with the Applicant; the Prosecution has not raised any concerns regarding tampering of evidence; and the Applicant is not required for any further investigative actions. Under such circumstances, the Court is of the opinion that the Applicant cannot be denied bail, solely on the ground of his prior antecedents. It is well-established through numerous rulings by

² Ayub Khan v. State of Rajasthan, 2024 SCC OnLine SC 3763.



the Supreme Court that the purpose of bail is not punitive or preventative. The fundamental objective is to secure the presence of the accused at trial.³ Consequently, the Court is inclined to grant the application for regular bail.

10. Accordingly, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 50,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The Applicant shall, under no circumstances, leave the boundaries of the country without the permission of the Trial Court;
- c. The Applicant shall appear before the Trial Court as and when directed;
- d. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
- e. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

11. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and shall not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

³ Sanjay Chandra v. CBI, (2012) 1 SCC 40; Satender Kumar Antil v. Central Bureau of Investigation,



13. With the above directions, the present application, is allowed.

SANJEEV NARULA, J

JANUARY 30, 2025

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(2022) 10 SCC 51.

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