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

+ **CRL.L.P. 51/2022**

STATE

.....Petitioner

Through: Ms. Priyanka Dalal, APP
for the State with SI
Ramkishan, ANTF Crime
Branch.

versus

MOHINUDDIN

.....Respondent

Through: Mr. Amit Kumar Gupta
and Mr. Vivek Kumar,
Advts.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **09.10.2025**

1. By the present petition, the petitioner prays as under :

*“A). Grant Leave to appeal in the present case titled in the
aforesaid case State vs Mohinuddin, passed by Ms.
NeeloferAbidaPerveen, Special Judge, NDPS Act (central
District), Tis HazariCourts, Delhi arising out of FIR no.
33/2015, U/s u/s 21 of Narcotic Drugs and Psychotropic
Substances Act;*

*B). Pass any other order or orders as this Hon’ble Court
may deem fit and proper in the interest of justice.”*

2. The learned Trial Court has acquitted the accused /
respondent holding that the provisions of Section 50 of the
Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS
Act**) have not been complied with.

3. The learned Trial Court held that though the accused was
given an option that he can get his search conducted before a
Gazetted Officer or a Magistrate, he was not made to understand
that it is his right as per law to get searched only in the presence
of either a Magistrate or a Gazetted Officer.



4. It was held that the accused was also not explained the meaning of Gazetted Officer or Magistrate.

5. The learned Additional Public Prosecutor for the State submits that the term 'Magistrate' is commonly understood by every citizen to mean a 'Judicial Officer'.

6. She submits that the same does not require a detailed explanation in any manner.

7. She further submits that the law laid down by the Hon'ble Apex Court in the case of **Arif Khan @ Agha Khan v. State of Uttarakhand : IV (2018) SLT 32 SC** has erroneously been applied by the learned Trial Court in the present case.

8. She submits that in the absence of any defence being taken in that regard, no benefit should have been given to the accused.

9. The matter requires consideration.

10. The leave to appeal is granted.

11. The appeal be numbered accordingly as CRL.A.
(to be numbered).

CRL.A. (to be numbered)

12. The appeal is admitted.

13. List in due course.

AMIT MAHAJAN, J

OCTOBER 9, 2025

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