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

+ **CRL.M.C. 687/2025&CRL.M.A. 3286/2025 (Stay)**

OMKESH SHRIKANT SAWANTPetitioner

Through: Mr. Akhilesh Lakhanlal Kamle,
Advocate.

versus

AIR CUSTOMS & ORS.Respondents

Through: Mr. Satish Aggarwala, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

03.02.2025

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1. This hearing has been done through hybrid mode.

CRL.M.A. 3287/2025 (Exemption) & CRL.M.A. 3288/2025 (Exemption)

2. Allowed, subject to all just exceptions. The applications are disposed of.

CRL.M.C. 687/2025&CRL.M.A. 3286/2025 (Stay)

3. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeks quashing of File No. VIII (AP)(10) P&I/5025-D/Arrival/2024, under Sections 8/20/23/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') registered at P.S. Customs, Terminal-3, Indira Gandhi International Airport, Delhi.

4. The petitioner was intercepted after crossing the Green Channel at Terminal 3 of the Indira Gandhi International Airport, Delhi, while approaching the Exit Gate of the International Arrivals Hall after which the



petitioner's luggage was sent for scanning, on the basis of which, a suspicious image was noticed in his check-in luggage. Thereafter, the check-in luggage was examined after giving notices under Section 102 of the Customs Act, 1962 as well as under Section 50 of the NDPS Act. After obtaining petitioner's consent, his personal baggage search was conducted in presence of the Air Customs Superintendent wherein in his grey coloured trolley bag, 12 polythene packets and 13 small glass bottles were recovered, which were found to contain *marijuana (Ganja)*, and the total net weight of the contraband was found to be 1804 grams.

5. Learned counsel appearing on behalf of the petitioner submits that the case of the prosecution as per the complaint dated 11.09.2024 is that the 25 samples of the contraband were seized and sealed in a container marked as 'A' and sealed with the IGI Airport Air Customs New Delhi's Brass seal "IGI Air Customs, New Delhi, T-3 D OPEN". It is also pointed out that there were 10 brass seals on the box containing the aforesaid samples.

6. It is further submitted by the learned counsel for the petitioner that in the detention receipt also it is written "sealed with IGI AIRPORT Air customs brass seals, T-3 D OPEN", however, the description in the order dated 17.08.2024 passed by the learned JMFC-02, South West District, Dwarka Courts under Section 52A of the NDPS Act it is described as "IGI Airport T-3 Air Customs OPEN A".

7. It is also submitted that even the weight of the contraband as per the prosecution at the time of seizure was to be 1804 grams and when the samples were drawn, it came to be 2746 grams. It is further submitted that the signatures on the *panch* witnesses are different on the ID-Card annexed with the complaint, on the detention receipt and as well as in the *panchnama*. It is



further submitted that there is a violation of the provisions under Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as the CCTV footage was not taken at the time of apprehending the petitioner.

8. Heard learned counsel for the petitioner.

9. The discrepancy in the seal, if any, is a matter of trial, which the petitioner has to confront the concerned Investigating Officer as well as the *panch* witnesses at the time of their examination before the learned Trial Court. Insofar as the discrepancy in the weight of the contraband is concerned, the order under Section 52A of the NDPS Act states that total weight was 2746 grams including weight of the packaging material. In any case, this is also a matter of trial, which the petitioner will have to seek clarification from the concerned Investigating Officer. This Court cannot adjudicate on these issues which will otherwise amount to a mini trial. Even the aspect of discrepancy in the signatures of the *panch* witnesses will have to be confronted with the *panch* witnesses at the time of trial.

10. In view of the above, the petition is dismissed and disposed of.

11. The contentions of the petitioner are open at the time of the trial.

12. Pending application(s), if any, also stand disposed of.

AMIT SHARMA, J

FEBRUARY 3, 2025/bsr/sc

Click here to check corrigendum, if any