



2025:DHC:1997



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

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Date of Decision: 26.03.2025+ **BAIL APPLN. 781/2025**

AAMIN

.....Petitioner

Through: Mr. Prem Prakash Upadhyay,
Advocate

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP with IO/SI
Dimpy Gulia**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. Petitioner, a TSR driver suffering incarceration since 09.04.2024 seeks to be released on bail in case FIR No. 357/2024 of P.S. Narela Industrial Area for offence under Section 20 NDPS Act. It is alleged that the petitioner and his co-accused sitting as passenger in his TSR were found in possession of a total of 21 kg *ganja* in two trolley bags. One trolley bag containing 8.3 kg *ganja* was lying by the side of driver seat of the TSR while the other trolley bag containing 12.7 kg *ganja* was lying by the side of the passenger Ms. Khushbun Nesha. The accused persons were intercepted on the basis of secret information. Further, it is the case of the prosecution that originally one Radha also was sitting as a passenger in the TSR but she deboarded prior to the spot where the TSR was apprehended. According to

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prosecution, the seized contraband was to be supplied to the kingpin Md. Mojjam, who also has been arrested.

2. Learned counsel for petitioner contends that the prosecution story is not convincing at all since there is no reason for the passenger and the driver of the TSR to keep one trolley bag by the side of the passenger and the other trolley bag by the side of the TSR driver. It is explained by learned counsel for petitioner that if the TSR driver and the passenger were together in action, both trolleys would have been kept by the side of passenger in order to ensure convenient driving of TSR. And if they were not acting together, why would they travel in the same TSR and in any case, then the quantity of the allegedly recovered *ganja* from the petitioner would be only 8.3 kg, which is not a commercial quantity.

3. Learned APP files status report which is accepted across the board to be scanned and made part of the record. It is submitted by learned APP that the petitioner is not involved in any other criminal case.

4. Further, learned APP has produced before me CDRs and it is alleged on instructions of the IO/SI Dimpy Gulia that the CDRs reflect constant telephonic communication between the petitioner and the kingpin Md. Mojjam. The said CDRs reflect exchange of calls between two phone numbers, out of which one number is admittedly of the petitioner and the other number is alleged to be of kingpin Md. Mojjam. The IO was directed to show the ownership document of the other phone number. After spending some time on his investigation file, the IO stated that the other number belongs to Md. Rustom, who is brother of kingpin Md. Mojjam. However,



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there is no evidence on investigation file to show that phone of Md. Rustom was being used by kingpin Md. Mojjam. Even statement of Md. Rustom was not taken by the IO.

5. Thence, *prima facie* as on date there is no evidence to show that the present petitioner was involved in any conspiracy and at the most, the material is to the effect that he was found carrying a trolley bag containing 8.3 kg ganja, which is not a commercial quantity.

6. Considering the above circumstances, the bail application is allowed and petitioner is directed to be released on bail subject to his furnishing personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the Trial Court. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the petitioner.

**GIRISH KATHPALIA
(JUDGE)**

MARCH 26, 2025/rk

Click here to check corrigendum, if any