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

+ CRL.M.C. 1548/2025 & CRL.M.A. 6944/2025

JASPREET SINGH BAGGA

.....Petitioner

Through: Mr. Arshdeep Singh Khurana, Mr. Harsh Srivastava, Mr. Sidak Singh Anand, Ms. Simran Khurana and Mr. Nikhil Yadav, Advocates

versus

DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: Mr. Zoheb Hossain, Spl. Counsel with Mr. Vivek Gurnani, Panel Counsel with Mr. Pranjali Tripathi, Mr. Kanishk Maurya and Mr. Kartik Sabharwal, Advocates

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **02.06.2025**

1. The petition has been placed before this Court in the vacation Bench in terms of the order dated 28.05.2025 passed by the Roster Bench in CLR.MA.16945/2025.
2. Mr. Khurana, learned counsel appearing for the petitioner relies upon proviso to sub section (1) of Section 223 of BNSS, 2023 to submit that in the present case since the opportunity of hearing to the petitioner in terms of the proviso was not given, thus, the cognizance which was taken on 15.10.2024 would be illegal and nonest in law. In order to buttress his arguments, he relies



upon the judgment of the Supreme Court in ***Kushal Kumar Agarwal Vs. Directorate of Enforcement*** in ***SLP (Crl.) No.2766/2025*** rendered on 09.05.2025. He submits that in similar circumstances, the Supreme Court has quashed the order of the Magistrate taking cognizance of the offence in that particular appeal. He submits that the present case is fully covered by the judgment of the Supreme Court in ***Kushal Kumar Agarwal (supra)***.

3. Mr. Hossain, learned special counsel for the Directorate of Enforcement submits that on law what has been submitted in respect of the applicability of the ratio of judgment in ***Kushal Kumar Agarwal (supra)*** of the Supreme Court is not doubted. He also submits that since the complaint was filed by the Enforcement Directorate subsequent to 01.07.2024 when the BNSS, 2023 came into effect, the present petition may be disposed of in terms of the judgment of the Supreme Court in ***Kushal Kumar Agarwal (supra)***. However, he requests that the pending bail application filed on behalf of the petitioner be considered on its own merits.

4. In view of the fact that the Supreme Court has already settled the law in ***Kushal Kumar Agarwal (supra)*** covering the identical issue which is engaging this Court in the present petition, the ratio therein shall apply on all fours in the present case. Consequently, the order dated 15.10.2024 and 04.02.2025 taking cognizance by the Special Court is quashed and set aside.

5. However, as agreed by learned counsel for the parties, the bail application bearing no. IA No. 6/2025 in CT Case No. 1051/2024 pending before the court of Ld. Additional Sessions Judge, South-West District, Dwarka District Court which is listed on 06.06.2025, shall be considered on its own merits. All the contentions of the parties are left open to be considered by the learned Additional Sessions Judge, South-West District, Dwarka



District Court.

6. The present petition along with pending application, if any, is disposed of.

TUSHAR RAO GEDELA, J
(VACATION JUDGE)

JUNE 2, 2025
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