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

+ **BAIL APPLN. 1088/2025**

NAGENDRA RAY

.....Petitioner

Through: **Mr. Ajay Sinha, Advocate**

versus

STATE (NCT OF DELHI)

.....Respondent

Through: **Mr. Manoj Pant, APP for the State
with ASI Sukhvir Singh, P.S. Keshav
Puram, Delhi**

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

07.07.2025

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1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 785/2023, registered at Police Station Jahangir Puri, District-Dwarka, Delhi for commission of offence under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [hereafter '*NDPS Act*'].

2. Brief facts of the case are that on 28.12.2023, Narcotics Squad North-West District Delhi had received an intelligence input regarding a supplier of *ganja* based in H-1 Block, Jahagir Puri, Delhi. Thereafter a raiding party was formed and a raid was conducted by laying a trap at H-1/396, Jahangir Puri, where the present applicant was apprehended by the team and a notice under Section 50 of NDPS Act was served to the applicant. A total of 30.300 kg of contraband, i.e. *ganja* was recovered from the possession of the



applicant, which was seized. Thereafter, a case was registered against the present applicant and a charge sheet was filed against the present applicant on 25.06.2024. The contraband was sent for forensic examination, and the FSL report confirmed that the same was *ganja*. The learned Trial Court was pleased to frame charges against the applicant for offence under Sections 20/61/85 of the NDPS Act on 07.08.2024.

3. The learned counsel appearing for the present applicant argues that he has been falsely implicated in the present case and the applicant has been in judicial custody since 29.12.2023. The learned counsel of applicant contends that the alleged recovery of 30.300 kg of *ganja* was not made in the presence of any independent public witness, despite the area being heavily populated. Further, the prosecution has failed to adhere to mandatory procedural safeguards, no notice was given to public witnesses, no search was conducted in the presence of a Gazetted Officer, and the applicant claims that he was coerced into signing blank papers, which later got converted into a consent form. Furthermore, it is contended by the applicant that the house search was conducted without a warrant, and the arrest occurred after sunset without justification. The learned counsel for the applicant also argues that the investigation is complete, and the charge sheet has been filed, and no purpose will be served with further incarceration of the present applicant. Therefore, it is prayed that the present bail application be allowed.

4. *Per contra*, the learned APP for the State has vehemently opposed the bail application, submitting that on the basis of specific intelligence input, a raid was conducted at the premises of the applicant on 28.12.2023, leading to recovery of a commercial quantity of 30.300 kg of *ganja* from his



possession. It is argued that the contraband was recovered from the room of the applicant, which was opened with the assistance of the owner, and the mandatory notice under Section 50 of the NDPS Act was duly served upon the applicant. It is further submitted that during investigation, the applicant disclosed his involvement in the supply of contraband to a co-accused, and a slip detailing transactions related to the supply of ganja was also recovered from his possession, indicating a larger network. The applicant is also stated to be previously involved in another NDPS case (FIR No. 224/2019, P.S. Prashant Vihar), and there is a strong apprehension that he may indulge in similar offences if released on bail. In view of the serious nature of allegations, recovery of commercial quantity, and past involvement, it is prayed that the bail application be dismissed.

5. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

6. In the present case, it emerges from the record that the present applicant has been apprehended in connection with recovery of 30.300 kg of *ganja* from his possession, pursuant to a raid conducted on the basis of secret information. It is alleged that the applicant was running a supply operation from his room, and the contraband was seized from a plastic sack kept therein. It is also stated that the applicant disclosed supplying contraband to a co-accused, and certain slips relating to transactions of *ganja* were also recovered.

7. The recovery of *ganja* in the present case is 30.300 kg, which is commercial quantity. As such, the rigours of Section 37 of the NDPS Act squarely apply. Under Section 37 of the NDPS Act, bail in cases involving



commercial quantity can only be granted if two conditions are satisfied: *first*, the Public Prosecutor must be given an opportunity to oppose the bail application; and *second*, the court must be satisfied that there are reasonable grounds to believe that the accused is not guilty of the alleged offence, and that he is not likely to commit any offence while on bail.

8. The Hon'ble Supreme Court in ***Narcotics Control Bureau v. Mohit Aggarwal***: 2022 SCC Online SC 891, while explaining the meaning of 'reasonable grounds' under Section 37(1)(b) of NDPS Act, has held as under:

"14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail."

9. In the case of ***Union of India v. Prateek Shukla***: (2021) 5 SCC 430 as well as ***State v. Lokesh Chadha***: (2021) 5 SCC 724, it was held by the Hon'ble Supreme Court that the provisions of Section 37 of NDPS Act have to be applied strictly at the time of deciding bail application of an accused.

10. In the present case, the charge sheet has already been filed, and charges have also been framed. The FSL report confirms that the substance recovered from the possession of the applicant herein was *ganja*. The recovery was made during a joint operation and the applicant was apprehended from the spot. These facts, taken together, disclose a clear *prima facie* case against the applicant.

11. Furthermore, the applicant is also stated to be previously involved in



another NDPS case (FIR No. 224/2019). This past involvement, coupled with the serious nature of present allegations, does not inspire confidence that the applicant would not engage in similar offences if released on bail. There are, therefore, no reasonable grounds to believe that the applicant is not guilty or that he will not commit any offence while on bail.

12. Insofar as the argument regarding the applicant's arrest having taken place after sunset is concerned, the learned Trial Court has rightly noted in order dated 02.05.2024 that the same is a bald assertion unsupported by any material on record. The arrest is shown to have been made at 05:45 PM on 29.12.2023, and it was incumbent upon the applicant to place on record some credible proof to substantiate that sunset had already occurred prior to that time on the said date. In the absence of such evidence, the procedure followed by the investigating agency cannot be disbelieved merely on the basis of an unsubstantiated claim.

13. As regards the applicant's claim of procedural lapses, including absence of public witnesses, Gazetted Officer, and alleged coercion, this Court finds that such contentions are a matter of trial, and bail cannot be granted on these grounds and the charge sheet *prima facie* indicates compliance with due procedure, including service of notice under Section 50 NDPS Act.

14. In light of the totality of material placed on record, and considering the bar under Section 37 of the NDPS Act, this Court does not find it to be a fit case for grant of bail at this stage.

15. The bail application is accordingly dismissed.

16. It is, however, clarified that nothing expressed hereinabove shall



tantamount to an expression of opinion on merits of the case.

17. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 07, 2025/ns

[Click here to check corrigendum, if any](#)