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

+ **CRL.M.C. 2026/2025 & CRL.M.A. 9139/2025**

MAYANK DANG AND ANR

.....Petitioners

Through: Mr. Vijay Kasana, Mr. Chirag Verma,
Mr. Vaibhav Sharma, Advs.

versus

DIRECTORATE OF ENFORCEMENT

.....Respondent

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

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

13.10.2025

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1. Mr. Vijay Kasana, learned counsel appearing for the petitioners relies upon proviso to sub section (1) of Section 223 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") 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 *non-est* in law. In order to buttress his arguments, he relies upon the judgment of the Hon'ble Supreme Court in ***Kushal Kumar Agarwal v. Directorate of Enforcement 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***.

2. Mr. Zoheb 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 came into effect, the present petition may be disposed of in terms of the judgment of the Supreme Court in ***Kushal Kumar Agarwal***. However, he requests that the pending bail application filed on behalf of the petitioners be considered on its own merits.

3. In light of the fact that the Supreme Court has already settled the law in ***Kushal Kumar Agarwal*** 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 learned Special Court is quashed and set aside.

4. However, as agreed by learned counsel for the parties, the bail application bearing no. IA No. 11/2025 in Ct. Case No. 1051/2024 pending before the court of learned Additional Sessions Judge, South-West District, Dwarka Courts, New Delhi which is listed on 14.10.2025, 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 Courts.

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

AJAY DIGPAUL, J

OCTOBER 13, 2025

Sk/yr