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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1274/2025, CRL.M.A. 9932/2025,**
CRL.M.A. 20613/2025, CRL.M.A. 22643/2025,
CRL.M.A. 25143/2025, CRL.M.A. 25256/2025,
CRL.M.(BAIL) 1652/2025, CRL.M.A. 27890/2025 &
CRL.M.A. 27891/2025

ZELMES SAVIO FERNANDES
ALIAS JOO

.....Applicant

Through: Mr. Ajay Marwah,
Ms. Swaroopananda
Mishra, Mr. Mayank
Bhardwaj, Mr. Prakhar
Singh & Mr. Rahul
Kumar, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP
for the State
SI Sanjeev Gupta, PS-
Crime Branch

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
17.09.2025

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1. The present application is filed seeking regular bail in FIR No. 264/2024, registered at Police Station Crime Branch, for offences under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').
2. It is alleged that on 18.12.2024, on the basis of secret information, the accused Gopal was apprehended at the Bus parking adjacent to Akshardham-Noida Road and a recovery of two *pulindas* containing 2194 g and 1489 g of Charas



respectively was effected from him.

3. It is the case of the prosecution that the recovered contraband was procured by the accused Gopal from the applicant and the applicant was found to be in constant contact with the accused Gopal. WhatsApp chats, CDR connectivity and banking transactions were found between the applicant and accused Gopal and they also identified co-accused Jordan and Paula as receivers.

4. The applicant allegedly disclosed that he had procured the contraband from persons, namely, Hira and Teja, from Himachal Pradesh and the same was to be delivered to his friends, that is, accused Jordan and Paula.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case merely on account of his acquaintance with the accused Gopal, from whom recovery has been effected in the present case.

6. He submits that the disclosure of accused Gopal is inadmissible as evidence and although it is alleged that the applicant is the supplier of the contraband, there is no cogent material to corroborate the same. He submits that accused Gopal had also named two other persons—Hira and Teja as suppliers, however, the prosecution has only taken action against the applicant.

7. He submits that the applicant has remained in custody since 31.12.2024 and his custodial interrogation is no longer required in the present case.

8. He submits that co-accused Paula and Jordan have been enlarged on bail in the present case even though severe allegations of tampering with evidence have been made against



them. He submits that the applicant is entitled to bail on the ground of parity.

9. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. She states that the present case involves recovery of commercial quantity of contraband and the rigours of Section 37 of the NDPS Act are attracted against him.

10. She submits that the investigation in relation to Hira and Teja is still ongoing and the custody of the applicant is imperative for unearthing the entire chain of supply.

11. She submits that the applicant's ATM/ Debit card was found with the accused Gopal when he was apprehended. She further submits that the co-accused Gopal's phone was kept on during his PC remand and multiple calls were received from the applicant where he inquired as to why material, which was to be supplied, had not reached in Goa.

12. She further submits that there are incriminating WhatsApp chats between the applicant and accused Gopal. She submits that the applicant has connectivity with the accused Paula and Teji as well and financial transactions with the accused Gopal, Jordan and Paula.

13. I have heard the counsel and perused the record.

14. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction;



the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

15. As commercial quantity of contraband has been recovered in the present case, therefore, the rigours of Section 37 of the NDPS Act are attracted and the Court can grant bail only when the following twin conditions stipulated in Section 37(1)(b) of the NDPS Act are satisfied– (1) The court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such offence; and (2) That the person is not likely to commit any offence while on bail.

16. In the present case, it is alleged that the applicant is the supplier of the contraband and he has CDR connectivity, incriminating WhatsApp chats and financial transactions with the accused Gopal, from whom recovery was effected in the present case.

17. The applicant has agitated that he is being implicated merely on account of his acquaintance with the main accused and there is no material which links him to commission of the offence. It is further stated that the disclosure statement of accused Gopal is inadmissible as evidence and the material against the applicant is not sufficient to implicate him in the present case.

18. While it is rightly argued that the disclosure of co-accused will not be admissible as evidence, it cannot be ignored that the present matter is one where the prosecution has brought forth certain WhatsApp screenshots which show the applicant weighing contraband along with other circumstantial evidence, including the financial transactions and CDR connectivity. In the



case of ***Narcotics Control Bureau v. Mohit Aggarwal*** : **Criminal Appeal Nos. 1001-1002/ 2022**, the Hon'ble Apex Court set aside the order granting bail and observed that the circumstantial evidence ought to have dissuaded the Court from exercising its discretion in favour of the accused therein.

19. The applicant is touted to be the source of the contraband in the present case. Considering the WhatsApp chats, the fact that the applicant's card was recovered from the accused Gopal when he was apprehended and the extensive financial transactions and CDR connectivity between the applicant and the other accused persons, this Court is of the opinion that a *prima facie* case is made out against the applicant at this juncture and there are reasonable grounds to believe that the applicant is guilty of the alleged offence.

20. Moreover, it has been pointed out that the investigation is still ongoing in relation to Hira and Teja. The applicant is stated to have financial transactions with the said Teja and he apparently named the said persons in his disclosure statement. Thus, it cannot be said that the applicant is not required for the purpose of further investigation.

21. Although it is stressed that the applicant has been in custody since 31.12.2024, the extent of incarceration is not such so as to overcome the rigours under Section 37 of the NDPS Act.

22. In such circumstances, this Court is of the opinion that there is material to link the applicant with the offence and the applicant has not made out a *prima facie* case for grant of bail.

23. The present bail application is therefore dismissed.

24. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application



and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

25. The bail application is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 17, 2025

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