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

+ **BAIL APPLN. 1538/2025**

SUJIT KUMAR SHAH

.....Petitioner

Through: Mr. S.P. Pandey and Mr. Sameer
Srivastava, Advocates.

versus

STATE OF NCT DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Khushboo Yadav, NR-1,
Crime Branch.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

21.08.2025

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1. The applicant is before this Court having remained under incarceration since 15.04.2024, seeking indulgence of this Court for grant of bail during pendency of the trial in criminal proceedings arising out of FIR No. 79/2025 dated 14.04.2024 for alleged offences under Sections 20, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Crime Branch, Delhi.

2. Per FIR, on a secret information that Sujit Kumar and his associates would be transporting cannabis/marijuana-dried leaves and flowers (ganja) in an Autorickshaw, the raiding team apprehended the three accused persons, who were identified as (1) Sujit Kumar Shah (driver); (2) Kamlesh Kumar; and (3) Ansh Shukla son of Harish Chand Shukla. All three were



informed of their rights under Section 50 NDPS Act, served with notices, and they refused to be searched before a Magistrate or Gazetted Officer.

2.1 Their personal searches yielded nothing, but on searching the auto, a black suitcase carried by Sujit Kumar was found to be containing five packets of ganja weighing 24.940 kg, while a silver suitcase in the back seat contained five packets weighing 25.530 kg. In total, 50.470 kg of ganja was recovered, which was seized and sealed as per procedure. The auto was also seized, and the case was registered under Sections 20/25/29 of the NDPS Act.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would argue on the lines of grounds taken in the petition *inter alia* urging as below:

4.1 That the applicant has been falsely implicated in the matter as he is an auto driver who was taking the co-accused passengers/his regular customers from New Delhi Railway Station to Bhalswa Village in a routine manner. Moreover, he contends that he was not aware of the contents of the suitcase. As per the charge sheet, it is claimed that one suitcase was in the applicant's hand at the time of apprehension, but no independent witness or CCTV footage supports this claim.

4.2 That the applicant was apprehended on 14.04.2024 near Shah Alam Band Road, which is a crowded place near a metro station covered by CCTV, yet no CCTV footage or independent eye witness has been produced. All witnesses are police officials only.

4.3. That applicant allegedly remained in touch between 11.04.2024 to 14.04.2024 with co-accused Kamlesh Kumar Shukla. However, analysis of



CDRs shows no such connectivity with co-accused Kamlesh Kumar Shukla or Harish Chander Shukla.

4.4 That applicant made two payments of ₹46,530/- to co-accused Harish Chander Shukla on 04.04.2022 and 09.04.2022 through mobile number 8506858859. However, bank account details of petitioner show that no such amount was ever debited or even available in his account.

4.5 That the investigation is complete and the chargesheet has been filed. Moreover, the prosecution witnesses are all formal witnesses and no recovery is pending from the applicant.

4.6 That the applicant has no past criminal antecedents and is the sole earning member of a poor family, and his continued detention is causing grave prejudice to his family's survival.

5. Opposing the aforesaid arguments, learned APP for the State would submit that it has been found during further investigation that the applicant was in regular touch with the other co-accused persons.

5.1 She would further contend that there are a number of monetary transactions between the applicant and Harish Chandra Shukla by using his phone number 8851176542 and 8506858859 on 04/04/2022 and 09/04/2022.

5.2 Furthermore, learned APP would contend that co-accused Virendra is a relative of the accused Sujit Kumar Shah who is a local receiver of illicit Ganja and is absconding. She would then go on to argue that the applicant may commit further offence of similar nature if released on bail.

6. Heard and perused the case file.

7. It transpires that the applicant on the fateful day had accepted the other co-accused as the travellers, namely Kamlesh Kumar and Ansh Shukla and may have not been aware of the contents of the bags which were being



carried by them. At the time of recovery of the contraband, i.e. the cannabis (Ganja), the co-accused were since found to be travelling in the auto rickshaw which was being driven by the applicant, he was presumed to be one of their accomplice and based on that suspicion, he was taken into custody.

8. As regards the objection of learned APP qua the call detail record, learned counsel for the applicant would submit that the travellers used to hire his auto rickshaw frequently. Therefore, they had exchanged their telephone number with each other and quite frequently, whenever the auto rickshaw was required to be hired, he was telephonically informed by the co-accused. Regardless, he would submit that the applicant was not aware of the nature of activities being carried out by the co-accused.

9. The applicant has been in custody for more than a year and four months. The chargesheet has been filed and all the witnesses are formal witnesses, no recovery is due to be made from the applicant and the trial is likely to take long time as it is proceeding at a snail's pace.

10. Applicant is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

11. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail's pace. Whereas, applicant has already been in jail for the past more than (being behind bars since 15.04.2024) 1 year and 4 months.



12. The applicant is stated to be the sole breadwinner of his family and belonging to the lower strata of the society earning his livelihood by driving Auto Rickshaw. He is responsible to tend to his elderly parents, wife and children who are solely dependent on him for survival. In his absence, the family is moving towards literal starvation and penury.

13. Considering the totality of facts and circumstances, the stage of the trial, and the role attributed to the applicant in the FIR, nature of contraband, I am of the view that this is a fit case for granting bail to the applicant at this stage.

14. In view thereof, the applicant is directed to be released on bail on his furnishing bail bonds and surety of an equivalent like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the usual conditions to be imposed by the learned Trial Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same. In case, applicant is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 21, 2025

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