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

+ **BAIL APPLN. 1589/2025**

ABRAR@BALE

.....Petitioner

Through: Mohd. Shamikh and Mr. Absar
Ahmad, Advocates

versus

**STATE OF DELHI THROUGH SHO PS
CRIME BRANCH**

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with Ms. Lata Bhandari, Mr. Gajinder
Singh and Mr. Brijpal, Advocates

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

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19.05.2025

1. By way of the instant application, the applicant seeks grant of regular bail in case arising out of FIR bearing No.222/2021, registered at Police Station Crime Branch, Delhi for the commission of offence punishable under Section 20/25 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereafter '*NDPS Act*').
2. Briefly stated, the case of the prosecution is that on 15.11.2021, Crime Branch, Delhi had received a call from one Zakir Hussain ('truck driver') who had informed that he was the driver of a TATA truck bearing vehicle registration number UP-25-DT-2874 and was accompanied by helper Shahnwaz Khan ('helper') and a person named Shahzeb, who had hired the truck from Bareilly to Odisha. The truck driver further informed that Shahzeb had loaded gunny bags containing goods in the truck, which goods



seemed like Ganja and that they would be reaching Majnu ka Tila between 12:30 AM to 01:30 A.M. and would be climbing down Wazirabad Bridge towards Burari, Delhi, where the goods would be unloaded. He further stated that some persons, who had gone to Balangir, Odisha along with this TATA truck by car bearing number DL-9C-AS/AC-1936 to bring the goods back to Delhi, are also accompanying the truck in their car. On the basis of the aforesaid information, Crime Branch, Delhi conducted a raid near Wazirabad Bridge, Delhi and the aforesaid truck was intercepted by the raiding team. Upon enquiry, the identity of the driver was revealed as Zakir and the other person was Shahnawaz. The third person was Shahzeb Chaudhary. During the search of the truck, total 300 kgs, Ganja had been recovered, which was packed in 12 white plastic bags hidden underneath plastic crates.

3. During investigation, accused Shahzeb Chaudhary was taken into custody, and he had disclosed that Sushil alias Sonu, Akram alias Raju and Mahesh had gone to Odisha on the directions of one Abrar alias Bale i.e., the applicant herein; and got Ganja loaded in the truck. It is stated that charges have been framed against all the accused on 22.12.2023 by the learned Trial Court, and 3 prosecution witnesses out of 38 witnesses have been examined so far.

4. The learned counsel appearing on behalf of the applicant states that the applicant has been in judicial custody since 12.09.2022. It is stated that there is no connection of the applicant with any of the persons from whom the contraband was recovered. It is stated that there is no Call Detail Record (CDR) and/or transaction connectivity to prove the purchase of contraband by the applicant. It is stated that admittedly, as per the prosecution's case,



the applicant was neither present in the truck nor was he present at the spot, where the main accused Shahzeb Choudhary was arrested by the police on 15.11.2021 along with 300 kgs of Ganja. It is also stated that apart from the disclosure statement made by Shahzeb Choudhary, there is no evidence on record which could connect the present applicant with the commission of the present offence. It is also submitted that the co-accused Mahesh, Sushil and Akram have already been released on bail by the Coordinate Bench of this Court. Thus, it is prayed that the applicant herein be granted regular bail.

5. *Per contra*, the learned APP for the State argues that 300 kgs of Ganja had been recovered in this case from the truck in question. It is stated that the quantity of the contraband recovered is commercial as per the NDPS Act, and thus, the rigours of Section 37 of the NDPS Act would be applicable in the facts of the present case. It is argued that the name of the applicant was disclosed by the co-accused, and the applicant was the one who had given instructions to the other accused persons for carrying the Ganja. He however fairly points out that there are total of 5 accused persons in the present case and three out of them, i.e. Sushil, Akram and Mahesh, have been granted regular bail.

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

7. In the present case, the recovery of 300 kgs of Ganja was affected from the Tata Truck in question, which is a commercial quantity. However, the present applicant was not present at the spot, and his role was disclosed by co-accused during the course of investigation.

8. The chargesheet against the applicant herein and the co-accused persons has been filed and there are total of 38 witnesses, who have to be



examined by the prosecution; and out of the said 38 witnesses, as on date, only three (3) witnesses have been examined. In light of the said fact, it appears to this Court that a considerable time will take to conclude the trial.

9. The Hon'ble Supreme Court has consistently held that delay in trial/prolonged trial is antithetical to the fundamental right enshrined in Article 21 of the Constitution of India. The Hon'ble Supreme Court has held that even in cases relating to NDPS, if the prosecution is unable to conclude the trial within a reasonable period the accused would be entitled to bail, if the delay in trial is not attributable to him.

10. It is material to note that co-accused Sushil, Akram @ Raju and Shazeb have been granted bail by the Co-ordinate Bench of this Court in BAIL APPLN. 3989/2024, BAIL APPLN. 4480/2024 and BAIL APPLN. 4673/2024, after taking into account the total number of prosecution witnesses and the time to conclude the trial.

11. Thus, considering the overall facts, and the fact that the co-accused persons, having similar role as that of present applicant, have already been granted bail, this Court is of the opinion that the applicant herein ought to be enlarged on bail on the ground of parity. The applicant is, therefore, admitted to regular bail in FIR No. 222/2021 dated 16.11.2021 registered at P.S. Crime Branch, Delhi under Sections 20/25 of NDPS Act and is directed to be released on furnishing a personal bond in the sum of Rs. 1,00,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned, and further subject to the following conditions:

- (i) The applicant shall not leave the country without prior permission of the concerned Court.



- (ii) The applicant shall provide permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
 - (iii) The applicant shall appear before the Court as and when the matter is taken up for hearing.
 - (iv) The applicant shall provide his mobile number to the IO concerned which shall be kept in working condition at all times.
 - (v) The applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, or tamper with the evidence of the case.
12. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
13. Nothing contained herein shall tantamount to an expression of opinion on merits of the case.
14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 19, 2025/ns

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