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

+ **BAIL APPLN. 2163/2023**

SANJAY KUMAR

.....Petitioner

Through: Ms. Sushma Sharma, Mr Girish
Kumar Sharma, Mr. R. Sahil, Ms.
Aayushi Gaur, Ms. Stuti Aggarwal &
Mr. Dhruv Kumar Sharma, Advs.

versus

STATE

.....Respondent

Through: Mr. Manoj Pant, APP for the State
along with SI Sudeep NR-1 , Crime
Branch.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

14.10.2025

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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. 174/2022, registered at Police Station Crime Branch, Delhi for the commission of offence punishable under Sections 15/25/59 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter '*NDPS Act*').

2. Briefly stated, the facts of the present case are that on the intervening night of 16–17.08.2022, a police team comprising HC Trispal, HC Sandeep, and HC Narender had received secret information regarding the transportation of poppy straw (*doda/bhukki*) from Village Khera Kalan to Sanjay Gandhi Transport Nagar. Acting upon this information, a trap was laid, and one Tempo Tata Ace bearing registration No. DL1LW4398 was



intercepted. On checking, the vehicle was found loaded with eight plastic bags containing poppy straw. The identity of the tempo occupants was established as Raj Kishore and Rajesh Rajput. Each plastic bag was found to weigh 19.7 kgs., making a total recovery of 154.6 kgs. of poppy straw. On the basis of this recovery, an FIR was registered, and both the above-named accused were arrested. During interrogation, they disclosed that the contraband had been procured from a godown in Village Khera Kalan, owned by Sanjay (the present applicant). Acting on their disclosure, a raid was conducted at the said premises, where the applicant was found present. From the godown, 10 additional plastic bags containing poppy straw (*doda/bhukki*) weighing about 197 kgs. were recovered. The present applicant was thereafter arrested. As per the prosecution, both the applicant Sanjay and co-accused Rajesh Rajput disclosed that they were working for one Nirpal, on whose direction the applicant had rented the godown. The Call Detail Records (CDRs) of Nirpal's mobile number were obtained, and the location of the said number was traced to Mahilpur, Punjab. The seized Tata Ace (DL1LW4398) was found registered in the name of Raj Kishore Rai.

3. The learned counsel appearing for the applicant contends that the arrest of the applicant is vitiated for non-compliance with Section 52 of the NDPS Act, as the applicant was not served with the written grounds of arrest at the time of being taken into custody, which is also in violation of the mandate of Article 22(1) of the Constitution of India, as laid down by the Hon'ble Supreme Court in decision of ***Prabir Purkayastha v. State*** (*Criminal Appeal D. No. 42896/2023, decided on 15.05.2024*), wherein it was held that non-supply of written grounds of arrest amounts to violation of



constitutional and statutory safeguards. It is further argued that the alleged recovery from the applicant was made from a godown at Village Khera Kalan, but the prosecution has not specified the time of the raid, and that no independent witness was joined during the recovery proceedings, nor was any photograph or videography of the recovery undertaken. The learned counsel also submits that there is non-compliance with Section 41 and 42 of the NDPS Act, as the secret information was neither reduced into writing nor forwarded to the superior officer within 72 hours as mandated under law. It is also urged that the applicant has been in custody since 17.08.2022, and out of 24 listed witnesses, only 6 witnesses have been examined till date, indicating that the trial is likely to take considerable time. In these circumstances, it is prayed that the applicant be enlarged on bail.

4. The learned APP for the State, on the other hand, argues that the 197 kgs of poppy straw was recovered from the godown of the applicant, and total recovery of contraband in this case is about 356.6 kgs. It is also submitted that the CDR analysis reflects the connectivity among the accused persons. It is thus prayed that the present application be rejected.

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

6. In the present case, this Court notes that pursuant to the disclosure statements of co-accused Raj Kishore and Rajesh Rajput, who were found transporting 154.6 kgs of poppy straw in a tempo, the premises of the present applicant Sanjay were subsequently raided, leading to his arrest. According to the prosecution, the applicant was found in possession of ten plastic sacks containing poppy straw, each weighing 19.7 kgs, totaling 197 kgs. It is specifically alleged that upon noticing the police party, the



applicant had attempted to shift the said sacks into a nearby godown, which demonstrates conscious possession and an intent of the applicant to conceal the contraband.

7. It is further the specific case of the prosecution that the 154.6 kgs of contraband recovered from the co-accused persons had been procured from the godown belonging to the present applicant. The total recovery in the case, combining both seizures, thus amounts to 351.6 kgs of poppy straw, which is well above the threshold of commercial quantity as defined under the NDPS Act.

8. Accordingly, the rigours of Section 37 of the NDPS Act are attracted, as per which, no person accused of an offence involving commercial quantity shall be released on bail unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail.

9. This Court further notes that during investigation, the statement of one Jaikishan was recorded under Section 161 of Cr.P.C., who disclosed that he is the owner of the godown located at 106/186, Village Khera Kalan, Delhi, which is divided into several rooms and halls. He has categorically stated that the present applicant Sanjay Kumar, whom he knew as a flower seller, had taken one portion of the said godown on rent in March 2022 for a monthly rent of ₹5,000. Although no written rent agreement was executed, his statement *prima facie* indicates that the applicant herein was in possession and control of the godown from which the contraband substance was recovered.

10. Therefore, this Court, even *prima-facie*, is unable to arrive at a conclusion that the applicant is not guilty of commission of offence, for the



purpose of recording satisfaction under Section 37 of the NDPS Act. The contention of the applicant regarding procedural non-compliance is a matter of trial.

11. Considering the overall facts and circumstance of the case, this Court is not inclined to grant regular bail to the applicant at this stage.

12. Accordingly, the present application stands dismissed.

13. It is, however, clarified that nothing expressed herein above 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

OCTOBER 14, 2025/A