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

+ **BAIL APPLN. 1748/2025**

BITTU KUMAR

.....Petitioner

Through: Mr. Rahul Pratap Singh and Mr.
Nishant Sanjay Kumar, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with SI Yogender, PS Nangloi

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.08.2025

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1. The present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 438 of the Code of Criminal Procedure, 1973²) seeks pre-arrest bail in relation to FIR No. 60/2025 registered under Sections 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985³ at P.S. Nangloi. A chargesheet has already been filed against the co-accused under Sections 20(b)(ii)(b)/29 of the NDPS Act.

2. Briefly, the case of the prosecution is as follows:

2.1. On 19th January, 2025, acting on a PCR call, a bus was searched at Nangloi Railway Road, Delhi, where 3 kg 10 gms of Ganja was recovered from the possession of the bus conductor, Prahlad. FIR No. 60/2025 was registered under Section 20(b)(ii)(B) NDPS Act and Prahlad was arrested.

2.2. During interrogation, Prahlad disclosed that he had been transporting Ganja for co-accused Vicky Kumar and his younger brother Bittu Kumar,

¹ "BNSS"

² "Cr.P.C."

³ "the NDPS Act"



the Applicant. He stated that Bittu used to hand over parcels of Ganja to him in Bihar, which he transported to Delhi and handed over to Vicky, receiving payment in cash or online.

2.3. WhatsApp chats between Prahlad and Vicky corroborated the disclosure. Co-accused Vicky was subsequently arrested on 9th February, 2025 and confirmed that his brother, the present applicant Bittu, was supplying the Ganja. Call Details Record analysis also showed regular communication between Prahlad and the Applicant.

2.4. A raid conducted at the Applicant's residence in Bihar revealed that he had not been residing there for some time, and he failed to join the investigation despite service of notice under Section 67 of the NDPS Act. The Applicant then applied for pre-arrest bail before ASJ, NDPS Court, Tis Hazari Courts, Delhi but the same was dismissed on 25th April, 2025.

2.5 Thereafter, the present application seeking pre-arrest bail was filed and pursuant to directions of this Court *vide* order dated 7th May, 2025, the applicant appeared before the Investigating Officer on 10th May, 2025.

3. Counsel for the Applicant submits that the contraband allegedly recovered from the co-accused falls within intermediate quantity and no recovery has been effected from the Applicant himself. His implication, it is urged, rests solely on disclosure statements and circumstantial evidence. It is further submitted that the Applicant has joined the investigation, cooperated with the IO, and undertakes to do so as and when required. Since the investigation is already at an advanced stage, the continued custody of the Applicant is not necessary.

4. As noted above, on 7th May, 2025, this court while granting interim protection to the Applicant, had directed him to join the investigation and in



compliance of the same, the Applicant duly appeared before the IO.

5. However, Mr. Mukesh Kumar, APP for the State, submits that while the Applicant did join the investigation pursuant to this Court's directions, he did not produce his mobile phone, stating that he had destroyed it. He further submits that the Applicant did not disclose the source of the contraband during investigation. Save for these aspects, the investigation is stated to be nearing completion.

6. The Court has considered the facts and the submissions advanced. As noted in the order dated 7th May, 2025, the case of the prosecution against the Applicant is based on the disclosure statement made by the co-accused. The contraband recovered amounted to 3 kgs 10 gms of Ganja, which falls within intermediate quantity, and was seized from the co-accused and not from the Applicant. There is no direct recovery from the Applicant. The allegations against him rest entirely on circumstantial evidence and the disclosure statements of the co-accused.

7. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial.⁴

8. The Applicant has already joined the investigation and the same is now nearing completion. The objection of the State that the Applicant failed to produce his mobile phone and did not disclose the source of the contraband can be addressed in the course of further investigation, for which the Applicant is already under a continuing obligation to join and cooperate.

⁴ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



For the reasons noted above, the Court is of the opinion that his custodial interrogation is not warranted at this stage.

9. Accordingly, the Applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The Applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The Applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The Applicant shall not contact the witnesses or tamper with the evidence in any manner;
- d. The Applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

10. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

11. 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.

12. The application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

AUGUST 27, 2025

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