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

+ **BAIL APPLN. 2428/2025**

WASIM

.....Petitioner

Through: Mr. Pramod Kumar, Advocate

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Arvind Kumar, P.S. Greater
Kailash-I, New Delhi.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

21.11.2025

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1. By way of present application, the applicant is seeking grant of regular bail in case arising out of FIR bearing no. 33/2023, dated 10.03.2023, registered at Police Station Greater Kailash, Delhi, for the commission of offence punishable under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances, 1985 (hereafter '*NDPS Act*').

2. Brief facts of the present case are that on 10.03.2023, HC Harish Kumar along with Ct. Deepak was on patrolling duty at the BRT corridor when a suspicious auto-rickshaw bearing registration No. DL-1RV-8378 was noticed. When signalled to stop, the driver had attempted to flee by accelerating the vehicle; however, after a chase of approximately 50 meters, the said auto was intercepted. Upon inquiry regarding the bags kept inside the vehicle, it is alleged that the driver had voluntarily disclosed that the



bags contained *ganja*. He had identified himself as Wasim (the present applicant). On search, he was found in possession of 79.80 kgs of *ganja*, which was subsequently seized in accordance with law.

3. It is stated that during the course of investigation, the applicant/accused disclosed that the recovered *ganja* had been brought by co-accused Shakeel, a truck driver, from West Bengal. Co-accused Shakeel was arrested on 12.03.2023, and his vehicle was seized. Further, during investigation, it is alleged that both the present applicant Wasim and co-accused Shakeel revealed that one Zubair Salmani had been in contact with them through his mobile number 78*****82 and certain other mobile numbers registered in West Bengal around the time of the incident. It also emerged that Zubair had transferred money from his HDFC Bank Account No. 50*****64 to various individuals in West Bengal as well as to the accounts of applicant/accused Wasim.

4. The learned counsel appearing for the applicant argues that the applicant has been falsely implicated in the present case. It is contended that the recovery proceedings were conducted in the absence of any independent public witness, and no photography or videography of the alleged recovery was carried out at the spot. It is further argued that in the present case, co-accused Shakeel has already been granted bail by the Coordinate Bench of this Court *vide* order dated 09.05.2024, and co-accused Zubair Salmani has also been granted bail by the learned Trial Court *vide* order dated 05.10.2024. It is argued that the prosecution has cited 25 witnesses, however, not a single witness has been examined till date; whereas the applicant has remained in judicial custody for about two and a half years.



Therefore, it is prayed that the applicant be released on regular bail.

5. The learned APP appearing for the State, on the other hand, has opposed the bail application, on the ground that commercial quantity of 79.80 kgs of *ganja* was recovered from the possession of the present applicant, which he was carrying in his auto. It is contended that there is no parity of the applicant with co-accused persons, since no recovery of any narcotic substance was affected from them. It is further argued that there exists CDR connectivity between the applicant and co-accused persons. It is also stated that material prosecution witnesses are yet to be examined and, therefore, releasing the applicant at this stage may adversely affect the trial. It is thus prayed that the bail application be dismissed.

6. This Court has **heard** arguments addressed on behalf of the applicant as well as the State, and has perused the material on record.

7. In a nutshell, the prosecution case is that on 10.03.2023, at about 02:40 AM, at BRT Road near Gas Agency, Krishi Vihar, within the jurisdiction of P.S. Greater Kailash, the applicant Wasim was found driving an auto bearing registration No. DL-1RV-8378 and was apprehended after he had attempted to flee when signalled to stop. From the auto driven by him, four bags containing 79.80 kgs of *ganja* were recovered. The said contraband was duly seized in accordance with law, and the FSL report confirms that the recovered substance is '*ganja*'.

8. During investigation, the applicant/accused is stated to have disclosed that the *ganja* had been brought from West Bengal by co-accused Shakeel, a truck driver. The applicant further disclosed that co-accused Zubair Salmani used to make payments to him for supplying *ganja*, which were received



online either in the account of the auto owner or the landlord. The investigation revealed money transfers of ₹3,000/-, ₹4,000/- and ₹1,000/- made by co-accused Zubair to the Paytm number of the applicant. CDR analysis also reflects that the applicant was in regular telephonic contact with co-accused persons, including Zubair Salmani and Shakeel, as well as with co-accused Jiyaar Rehman and Atual Islam, who have since been declared proclaimed offenders. It has also emerged during investigation that the applicant was responsible for transporting the *ganja* into Delhi through co-accused Shakeel and distributing it further within the city.

9. This Court is also of the opinion that the role of the present applicant stands on a different footing from that of co-accused Shakeel and Zubair Salmani. Co-accused Shakeel was granted bail by a Coordinate Bench of this Court *vide* order dated 09.05.2024 after noting that no recovery was effected from him and that the only incriminating material against him was two common contacts with the present applicant and one financial transaction with co-accused Zubair. Similarly, co-accused Zubair was granted bail by the learned Trial Court *vide* order dated 05.10.2024 on the ground that no contraband was recovered from him and his role was similar to Shakeel. However, in the case of the present applicant, commercial quantity of *ganja* measuring 79.80 kgs was recovered from his possession, and there is material indicating his role in the transportation and distribution of the narcotic substance. Therefore, no parity can be claimed with the co-accused persons.

10. In view of the recovery of commercial quantity of *ganja* from the applicant, the embargo under Section 37 of the NDPS Act squarely applies.



As held by the Hon'ble Supreme Court in ***State v. B. Ramu: 2024 SCC OnLine SC 4073***, “for entertaining a prayer for bail in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act”. At this stage, this Court is not satisfied that the twin conditions under Section 37(1)(b)(ii) stand fulfilled, i.e., that the applicant is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Charges have already been framed against the applicant. Material witnesses are yet to be examined, and considering the nature of allegations and the role attributed to the applicant, this Court does not find it appropriate to grant regular bail to the applicant.

11. Accordingly, the present bail application is dismissed.
12. However, the learned Trial Court is requested to expedite the recording of prosecution evidence in this case.
13. It is 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

NOVEMBER 21, 2025/zp

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