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

+ **BAIL APPLN. 2459/2025**

SUMIT KUMAR

.....Petitioner

Through: Mr. Aditiya Aggarwal, Ms. Kajol
Garg and Mr. Naveen Panwar,
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Dinesh Kumar, PS Bindapur.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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29.08.2025

1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No.462/2022 dated 18.06.2022 under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') registered at Police Station Bindapur.

2. As per the FIR, the prosecution's case is that:

2.1 On 18.06.2022, acting on secret information regarding one Sumit Kumar that he would supply ganja (cannabis/marijuana), a raiding team was



formed. The accused Sumit was apprehended while approaching his Corolla car. He was informed of his rights under Sec. 50 NDPS Act before ACP Dabri Sub-Division, but he declined to be searched before a Magistrate or Gazetted Officer and consented to search by the raiding team. Public witnesses were requested to join but none joined.

2.2 On search of the vehicle, 10 heavy packets wrapped in plastic tape were recovered, each containing greenish, lumpy substance identified as ganja. On weighing, the packets marked 1 to 10 were found to contain a total of 216.550 kgs ganja. The packets were sealed with the seal “JS” and seized vide seizure memo. The sealed contraband was deposited in the Malkhana. The car used in transportation was also seized. Accused Sumit Kumar was arrested on the spot on 18.06.2022.

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

3.1 The counsel for the petitioner would submit that Section of 42 NDPS Act was violated as the secret information received by ASI at 11:05 AM on 18.06.2022 was not reduced into writing by him but later by a constable, who is not an empowered officer. The statute mandates that the officer first receiving the information must himself record it, and any deviation vitiates the search.

3.2 The counsel would further assert no independent witness was joined despite a three-hour gap between the receipt of information at 11:05 AM and apprehension at 2:05 PM. No details of efforts or notices under Sec. 100(8) CrPC were shown, nor was any videography/photography done, though officers had mobile phones and CCTV was available. Such omissions cast



doubt on the prosecution's case.

3.3 The counsel would also state that the petitioner has already undergone custody of about 2 years and 8 months as an undertrial after his arrest on 18.06.2022 as on date of filing the application. The charge sheet was filed on 08.12.2023 and charges were framed on 18.12.2023, but out of 22 witnesses, only 2 have been examined and 1 has been partly chief-examined. The trial is unlikely to conclude in the near future and prolonged incarceration without trial is violative of Article 21.

3.4 The counsel would further submit that the petitioner has twice been granted interim bail on medical grounds, first by the Trial Court on 14.07.2023, which was later extended by the High Court on 01.09.2023 for the surgery of his mother, after which he surrendered on 13.09.2025; and again on 19.06.2025 till 01.07.2025 for the surgery of his wife. This demonstrates that the petitioner has never misused the liberty granted to him.

3.5 Moreover, the learned Counsel would submit the rigours of Section 37 of the NDPS Act cannot override the fundamental right to speedy trial.

4. The Learned APP opposes the bail stating that this Court vide order dated 12.09.2023 has recorded that the applicant misused the interim bail granted to him. Hence, the applicant should not be provided any indulgence.

4.1 Moreover, she would contend that the applicant is a flight risk and can abscond, if granted bail. The applicant can also influence witnesses and tamper with the evidence.

5. Having heard, there may be substance in the arguments of the learned Counsel for the applicant on merits, but that is a matter to be adjudicated by the Trial Court. However, I am of the view that it is case for bail at this



stage. Let us see how.

6. Given the nature of contraband and the duration of incarceration, coupled with the fact that there are no antecedents, and also that it was not recovered from the conscious possession of the applicant, I am of the view that it is a case of bail.

7. Adverting to the argument of the learned APP that the applicant has misused the interim bail granted to him earlier vide an order dated 14.07.2023 passed by the Trial Court, which was extended till 31.08.2023. It is borne out that the interim bail granted by the Trial Court was further extended till 12.09.2023 by this Court on account of medical condition of applicant's mother. However, vide order dated 12.09.2023, it was observed that mother of the applicant was in fact discharged on 01.09.2023 and the applicant did not surrender, hence the applicant misused the process of this Court. It transpires that though the mother of the applicant was discharged from the hospital on 01.09.2023 (for which the applicant was granted extension of interim bail) but he stayed back upto 12.09.2023 to take care of his mother and later surrendered on 13.09.2023.

8. Be that as it may, the applicant has been granted multiple interim bails as follows which he has not misused (apart from the instance in the preceding paragraph):

- a. From 12.02.2022 to 27.12.2022 (surrendered on 27.01.2023);
- b. From 02.03.2023 to 13.03.2023 (surrendered on 14.03.2023);
- c. From 10.05.2023 to 24.05.2023 (surrendered on 25.05.2023);
- d. From 20.06.2025 to 21.07.2025 (surrendered on 21.07.2025).

9. The chargesheet has been filed and statedly, 3 witnesses are examined out of 22, no recovery is due to be made from the applicant and the trial is



likely to take long time as it is proceeding at snail's pace.

10. Applicant is being kept in preventive custody for about 2 years and 8 months (excluding the period of interim bails) 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. In totality of the circumstances, I am of the view that at this stage, the applicant is entitled to bail during the pendency of the trial.

12. The applicant is stated to be the sole breadwinner of his family and belonging to humble background, he is responsible to tend to his family including his minor children who are solely dependent on him for survival. In his absence, the family is moving towards literal starvation and penury.

13. Taking wholesome view of the matter, the application is allowed. The applicant is thereby directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court.

14. 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 the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case *vide* instant order.



15. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 29, 2025/rs/nk