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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 410/2025, CRL.M.A. 25190/2025 &**
CRL.M.A. 25191/2025
NARCOTIC CONTROL
BUREAU

.....Petitioner
Through: Mr. Arun Khatri, SSC
with Ms. Shelly Dixit, Ms.
Tracy Sebastian & Mr.
Krish, Advs.

versus

ATHAR PARVEJ
Through:Respondent
Mr. Kaushal Jeet Kait,
Mr. Gaurav Dua & Mr.
Jatin Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
07.11.2025

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1. The present petition is filed challenging the judgment dated 30.07.2024 (hereafter '**impugned judgment**'), passed by the learned Trial Court in SC No. 8867/2016, whereby the respondent was acquitted for offences under Sections 22(c), 25A, 29 read with Sections 8 and 9A of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').
2. Briefly stated, on 21.08.2023, on the basis of secret information, the respondent and the accused Viqar were apprehended and two bags were recovered from the car. A recovery of 30kg of pseudoephedrine was effected from one bag and the other bag was found containing 2.5 kg of methaqualone.
3. A raid was conducted on the basis of the respondent's disclosure, and two parcels allegedly booked by him were seized and found containing 24.7 Kg of substance, which was asserted



to be methaqualone by the prosecution. The accused persons—Victor and Manoj were also apprehended on the disclosure of the respondent, but no recovery was effected from them. On testing of samples drawn from the parcels, CRCL, Delhi found that the substance did not test positive for methaqualone, however, CFSL, Hyderabad found that the duplicate samples tested positive for the same.

4. At the outset, it is relevant to note that there is an inordinate delay of 297 days in filing the present petition, which has not been properly explained.

5. No ground has been mentioned in the application seeking condonation of delay— CRL.M.A. 25191/2025 apart from the standard ground of bureaucratic delay which is usually pleaded by the Government department while filing an application seeking condonation of delay, except that reconsideration was necessitated in light of the pronouncements of the Hon'ble Apex Court in ***Narcotics Control Bureau v. Kashif* : 2024 INSC 1045** and ***Bharat Aambale v. The State of Chhattisgarh* : 2025 INSC 78** concerning Section 52A of the NDPS Act.

6. Insofar as the generic ground of delay on account of procedural requirements is concerned, it is pertinent to note that the Hon'ble Apex Court has frowned upon pleading of such practices by Government departments. The Hon'ble Apex Court, in the case of ***Postmaster General v. Living Media India Ltd.* : (2012) 3 SCC 563**, had held that the Government cannot claim to have a separate period of limitation when the Department is possessed with competent persons familiar with court proceedings. The delay cannot be condoned mechanically merely because the Government or a wing of the Government is a party



before the Court. The Hon'ble Apex Court had rejected the claim on account of impersonal machinery and bureaucratic methodology of making several notes in view of the modern technologies being used and available.

7. The Hon'ble Supreme Court in the case of ***State of M.P. v. Bherulal* : (2020) 10 SCC 654**, while observing the irony that no action is taken against the officers who sit on files and do nothing under a presumption that the court would condone the delay in routine, held as under:

“6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as “certificate cases”. The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.”

8. Thus, unless a reasonable and acceptable explanation for the delay is provided, the same cannot be condoned merely on account of cyclostyle pleas of procedural nuances. As noted above, in the present case, no worthy reason is pleaded so as to entitle the application for condonation of delay being allowed.

9. Although it is also mentioned that reconsideration was necessitated due to change in legal position, as rightly pointed



out by the learned counsel for the respondent, the judgment in ***Narcotics Control Bureau v. Kashif*** (*supra*) was in regard to effect of lapse or delayed compliance of the procedure under Section 52A of the NDPS Act while considering the question of bail, whereby the observations made by the Court therein could not have been the reason for not filing the appeal on time. While the judgment in ***Bharat Aambale v. The State of Chhattisgarh*** (*supra*) relates to impact of Section 52A of the NDPS Act on trial, pertinently, the application seeking condonation of delay reflects that approval for filing appeal was received in the month of October, 2024 itself, despite which, the petition was not filed till August, 2025.

10. Even otherwise, although it is argued that the acquittal of the respondent is helmed on alleged non-compliance of Section 52A of the NDPS Act which is not fatal to the case of prosecution, a bare perusal of the impugned judgment clearly indicates that the judgment has been passed after due consideration of the evidence on record and the same is premised on a multitude of cogent aspects apart from compliance of procedure under Section 52A of the NDPS Act. The relevant portion of the impugned judgments is reproduced hereunder-

“12. It is further argued by the Ld. Counsel for accused persons that Section 42 NDPS Act has not been complied in the present matter as the accused Viqar Ahmed and Parvez were apprehended during midnight. It is also argued by Ld. Counsels for accused that PW8 ASI Rajbir proved the DD entry 87B and the same is w.r.t. quarrel and not w.r.t. recovery of contraband even PW12 SI Devender Singh who was assigned DD number 87B and deposed that he remained on the spot for 15-20 minutes but no contraband was seized by the NCB officials in his presence. It is further argued that PW20 Mr. Laxman Gupta who is the witness of prosecution has turned hostile and has not supported the case of prosecution, PW21 Mr. Parvinder who was security guard



at the place where recovery was effected has also not been made a witness of recovery despite his presence on the spot, therefore, there is no independent witness of the seizure from the accused Athar and Viqar, this shows that the whole case has been manipulated by the NCB officials in order to falsely implicate accused Athar Parvez, Viqar, and Manoj Basoya and prays for acquittal of these accused persons.

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23. PW8 SI Rajbir proved DD number 87B dated 21.08.2023 (Ex.PW2/47) lodged in PS New Friends colony at 11:56 pm and the same is w.r.t. a quarrel/jhagda. The same was marked to PW12 SI Devender Singh who reached on the spot and found collusion of two vehicle Bolero and Sentro Cars but did not disclose anything about the recovery in his presence, though, he stated that he remained on the spot for 15-20 minutes and till that time no contraband was seized by the NCB officials. It is ironical that police officials who is not an NCB person reached on the spot and NCB officials informed him that they have got pseudoephedrine the same was disclosed by PW12 SI Devender Singh during cross examination by the accused Athar Parvez and during cross examination on behalf of accused Viqar Ahmad he deposed that he reached on the spot within 2-3 minutes and remained on the spot for 15-20 minutes while panchnama started at 0015 hours on 22.08.2023, therefore, if NCB officials has not seized the contraband in presence of PW12 who reached on the spot within 2-3 minutes as the DD entry was lodged at 11:56 pm then how NCB officials can tell that they have caught the accused persons with pseudoephedrine and there is no police report w.r.t. fact that the pseudoephedrine was recovered from accused Athar and Viqar nor PW12 SI Devender Singh has deposed he saw any bag lying in the vehicle or outside the vehicle and that too when it was the case of accident between two vehicles. The vehicle of NCB and accused Athar, Viqar, as per case of NCB, collided on the left side of gate opposite B-104 near gate 1 but despite that PW20 Mr. Laxman Gupta who was the NCB witness and was on duty at the gate has not deposed anything about the recovery rather he deposed that he wrote whatever was dictated to him in his statement u/s 67 NDPS Act. **Even Mr. Parvinder Singh who was security guard at the gate no. 1 has also not deposed anything about the recovery of contraband from accused persons and the sole independent witness of the seizure Mr. Pramod Upadhyay was dropped by the NCB on 15.04.2024, therefore, the independent witnesses of NCB who have deposed in the court has not stated anything about the seizure from the accused Viqar and Athar and the person whose name is mentioned in seizure memo Ex.PW2/4 namely Mr. Pramod Upadhyay was dropped by NCB, therefore, there is no independent**



witness on record who can corroborate the versions of NCB officials and it is a fact that people gathered on the spot when the collision of NCB vehicle and accused Athar's vehicle took place. Even the testimony of PW12 Mr. Devender Singh also cast a doubt on the testimony of NCB officials that even being police officials no recovery was effected in his presence though he was present on the spot for 15-20 minutes, he reached on the spot within 2-3 minutes of DD entry 87B which was lodged at 11:56 pm on 21.08.2023 and panchnama was prepared at 0015 hours on 22.08.2013 by NCB officials.”

11. Although recovery can be proved by official witnesses, the circumstances of the case which involve the sole independent witness of the seizure being dropped and security guard at the place of recovery not being made a witness cast doubt on the case of the prosecution and the benefit of the same cannot be denied to the respondent. It is also pertinent to note that the prosecution has chosen not to challenge the judgment of acquittal against the other accused persons.

12. In view of the aforesaid discussion, this Court is of the opinion that the State has not been able to establish a *prima facie* case in its favour and no credible ground has been raised to accede to the State's request to condone the delay or to grant leave to appeal in the present case.

13. The leave petition along with the pending application for condonation of delay is dismissed in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

NOVEMBER 7, 2025
“SS”