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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3373/2025 & CRL.M.A. 26417/2025

SUMIT

.....Applicant

Through: Mr. Pramod Kumar, Mr.
R.P. Sarwan, Mr. Avdesh
Kumar, Ms. Palak Jain,
Mr. Rahul Singh, Advs.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State along
with Mr. Lalit Luthra &
Mr. Vinesh Kumar, Advs.
SI Kiranpal Singh, ASI
Sakharam, PS Subzi
Mandi.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

14.11.2025

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1. The present application is filed seeking regular bail in FIR No. 473/2024 dated 10.08.2024 for offences under Sections 8/20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**') registered at Police Station Subzi Mandi.
2. Briefly stated, FIR in the present case was registered on 10.08.2024 pursuant to the police allegedly receiving a secret information that one person, namely, Hitesh Sharma, has kept large quantity of contraband (*Ganja*) in the office of Shri Shyam Transport, Shop No. 20, Rajender Market, Tis Hazari, Delhi.
3. It is alleged that the information was conveyed to senior officers and a raiding team was formed and on reaching the said shop, they found that Shri Shyam Transport had no sign board.



4. It is alleged that when the Police was moving towards the shop, the applicant started running from there on seeing the police and was then caught by one of the Head Constables. On searching the said premises, it is alleged that a large number of kattas were found lying on the ground and eight kattas were found kept in the loft. On being checked, parcels packed with adhesive brown colour tape were found in the said kattas, which contained *Ganja*. The kattas combined were found to be containing total quantity of 238.85 kgs. of contraband (*Ganja*).

5. Allegedly, the applicant stated in his disclosure statement that the recovered *Ganja* was brought by the accused Hitesh and kept in the shop in his presence as well as that of the accused persons—Jitender *alias* Jeety and Vipin.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant is a poor employee in the transport office and even as per the case of the prosecution, the contraband belonged to the co-accused, Hitesh Sharma.

7. He submits that the owner of the premises has not been made accused and the Police has erroneously relied upon his statement that he was not aware of the contraband being present at the shop.

8. He submits that once the prosecution specifically alleged that the co-accused wanted to transport the consignment, no allegation can be made on the applicant who was merely an employee to be knowing the contents of the same. He submits that the applicant being an employee is not required to verify the content of the consignment before being transported.



9. He submits that the contraband, admittedly, was of a high value and the applicant belongs to poor strata of society having no means to procure the contraband. He further submits that the Police has also not investigated any money trail in that regard.

10. The learned Additional Public Prosecutor for the State vehemently opposes the bail application. He submits that the contraband recovered was of commercial quantity and, therefore, the bar of Section 37 of the NDPS Act would apply.

11. He submits that the applicant was in conscious possession of the contraband and two of the witnesses have categorically stated that the recovered kattas were kept at the premises at the instance of the applicant.

12. I have heard the counsel and perused the record.

13. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

14. As the case involved recovery of commercial quantity of contraband, to be granted bail, the accused applicant must also overcome the bar prescribed under Section 37 of the NDPS Act.

15. It is the case of the prosecution that secret information was received regarding a huge quantity of contraband being kept in a shop. Allegedly, when the raiding party moved towards the shop



from where recovery was eventually effected, the applicant ran from there and was apprehended.

16. It is the case of the applicant that he was not aware of the content of the kattas since he used to merely facilitate transport of goods and it was not within the remit of his duties to verify the contents of the bag.

17. Undisputably, the shop from where the contraband was recovered was not owned by the applicant and he was only an employee in the said shop. It is also not disputed that even as per the case of the prosecution, the co-accused Hitesh Sharma was the main source of the contraband and he had kept the contraband at the shop.

18. While the veracity of the allegations against the applicant would be tested during the course of the trial, however, considering that the applicant was a mere employee, in the absence of any money trail linking the applicant to the contraband, the possibility of the applicant being ignorant of the contents of the kattas cannot be ruled out at this stage and there are reasonable grounds for believing that the applicant may not be guilty.

19. It is stated that the applicant belongs to the poor strata of society and he has been in custody since 10.08.2024. As the main accused, who is alleged to have kept the contraband, is yet to be arrested as he is absconding, the investigation is not likely to conclude and the trial will thus take a long period of time.

20. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. delay in the completion of the trial.



21. The applicant is also stated to be of clean antecedents, and is thus not likely to commit any offences while on bail.

22. In view of the above, without commenting further on the merits of the case, in the opinion of this Court, the applicant has made out a *prima facie* case for grant of bail.

23. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court/Duty MM/Link MM, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court on every date of hearing, unless his appearance is exempted;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

24. 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.

25. 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.

26. The present bail application is allowed in the aforementioned terms.

27. Pending application also stand disposed of.

AMIT MAHAJAN, J

NOVEMBER 14, 2025

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