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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 3718/2024 & CRL.M.A. 7672/2025 PLACING ON**  
**RECORT ADDITIONAL DOCUMENTS**

**INDAL NONIYA**

.....Petitioner

Through: **Mr. Hirein Sharma and Mr. Mohit**  
**Yadav, Advocates.**

versus

**NARCOTICS CONTROL BUREAU**

.....Respondent

Through: **Mr. Arun Khatri, SSC for NCB with**  
**Ms. Poonam Rani, Ms. Shelly Dixit,**  
**Advocates.**

**CORAM:**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**ORDER**

**21.03.2025**

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1. This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)/439 Cr. PC, filed by the applicant Indal Noniya for the grant of regular bail in Complaint No. VIII/15/DZU/2023, under Section 8/20/29 NDPS Act, registered at NCB.
2. Learned counsel for the petitioner submits that co-accused Shiva, who was apprehended with the present applicant on the disclosure statement of co-accused Khalid Khan, is on regular bail. It is submitted that the role of the present petitioner is the same as that of Shiva, and therefore, the applicant is entitled for the grant of bail on parity.
3. It is further argued that there is a discrepancy in the quantity of contraband recovered as the total recovery which was affected from the



applicant at the time of raid, was 93.280 kgs., but the contraband which was taken up at the time of recording of the proceedings under Section 52-A of NDPS Act was 91.963 kgs., which is fatal to the case of prosecution.

4. There is undue delay of 16 days in filing the application under Section 52A of the NDPS Act inasmuch as the alleged recovery was effected from the applicant on 11.04.2023 but the application under Section 52A was filed on 26.04.2023. It further submitted that as per proceedings under Section 52A, 25 grams of sample was taken from each packet but none of the samples reaching at FSL was of 25 grams.

5. It is further submitted that there is undue delay in the trial as the applicant is in custody since 11.04.2023. Not a single witness has been examined till date which demonstrates the slow pace of the trial.

6. *Per contra*, the learned Senior Standing Counsel, appearing for the NCB, on the other hand, submits that there is recovery of 93.280 gms. of Ganja from the possession of the applicant. It is submitted that the applicant had collected the parcel containing Ganja from VRL Logistics Ltd. and he provided the copy of his Aadhar Card to the officials of VRL Logistics Ltd. It is also submitted that there is no inordinate delay in conducting the proceedings under Section 52-A NDPS Act. With regard to the difference in the weight of the recovered contraband and the samples, it has been submitted that the samples may have picked up moisture, resulting in change in weight.

7. It is submitted that applicant cannot claim parity with co-accused Shiva, inasmuch as, applicant is involved in two more cases, viz. (i) FIR No. 0130/2018 under Sections 20/61/85 of NDPS Act registered at PS Dwarka North and (ii) FIR No. 85/2021 under Sections 20/61 of NDPS Act



registered at PS Kapashera. It is argued that there are serious allegations of recovery of Ganja from the possession of the applicant in commercial quantity, and therefore in view of bar Section 37 of NDPS Act, the applicant/accused is not entitled for grant of bail.

8. In rebuttal, learned counsel for the applicant has submitted that applicant has since been acquitted in case FIR No. 85/2021, under Section 20/61 NDPS Act.

9. As per prosecution version, on 10.04.2023, a secret information was received that a parcel containing narcotics was lying at the office of VRL Logistics Ltd., which was collected by co-accused Khalid Khan. Co-accused Khalid Khan was apprehended and from the said parcel, 152.100 kgs of Ganja was recovered. Co-accused Khalid Khan disclosed that applicant Indal Noniya would receive another parcel on the next day from the office of VRL Logistics Ltd., Krishna Nagar. On the basis of the said information, the present applicant and co-accused Shiva were apprehended and 93.280 kgs of Ganja was recovered from the said parcel.

10. Admittedly, co-accused Shiva has since been enlarged on bail, but his role was different, so much so, even the bail order of co-accused Shiva records that he had merely accompanied the present applicant Indal Noniya, in whose name, the parcel was received. The bail order also records the fact that the name of co-accused Shiva did not find mention in the disclosure statement of co-accused Khalid Khan. Even though, tax invoice/cash credit bears the signatures of the present applicant and co-accused Shiva, the buyer's name mentioned is Indal Noniya. Applicant had submitted his Aadhar Card to VRL Logistics Ltd. for obtaining the delivery of the parcel. In his statement, Mahipal Thakur, an employee of VRL Logistics Ltd.



confirms that the sender's name was Karim Safety Products and the name of the buyer/receiver was mentioned as Indal Noniya. Prima facie, it appears that the parcel was to be delivered to the present applicant and co-accused Shiva was only accompanying him. That being so, the applicant/accused cannot claim parity with co-accused Shiva in the matter of grant of bail.

11. As per Standing Order 1/88 dated 15.03.1988, the samples ought to be dispatched to the FSL within 72 hours of seizure, which has not been done in the present case. The irregularity in procedure or belated compliance of the procedure under Section 52-A of the NDPS Act or the Standing Order No. 1/88, is not a ground for grant of bail.

12. With regard to mismatch of the weight of the contraband, the same can be considered during the trial. The possibility that the mismatch was on account of the moisture, cannot be ruled out at this stage.

13. The alleged recovery of Ganja from the accused is in respect of commercial quantity, therefore bar under Section 37 NDPS Act, which shall apply in the present case. Hence, keeping in view the entire facts and circumstances, in particular, the fact that there is allegation of recovery of Ganja in commercial quantity in view of the bar of Section 37 NDPS Act, the Court is not inclined to grant bail to the applicant/accused Indal Noniya at this stage.

14. The application is accordingly dismissed.

**RAVINDER DUDEJA, J.**

**MARCH 21, 2025**

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