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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3791/2025 & CRL.M.A. 29536/2025

SUKHJEET SINGH

.....Applicant

Through: Mr. Himanshu Saxena,
Ms. Palak Jain & Mr.
Aditya Joshi, Advs.

versus

THE STATE OF NCT OF DELHIRespondent

Through: Ms. Priyanka Dalal, APP
for the State
Inspector Mintu Singh,
PS- SP Badli

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

29.10.2025

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1. The present application is filed seeking regular bail in FIR No. 521/2025 dated 05.05.2025, registered at Police Station Samaipur Badli for the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').
2. Briefly stated, it is alleged that on 05.05.2025 at around 11:45 AM, on the basis of suspicion, the applicant and co-accused Jaspal Singh were apprehended and a recovery of 6.125 kg of *doda post* was effected from the applicant and another recovery of 11.215 kg of *doda post* was effected from co-accused Jaspal Singh.
3. The applicant was thereafter arrested on 05.05.2025 and is in custody since then.
4. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the



present case. He submits that the recovery effected from the applicant is only of intermediate quantity and in such circumstances, the bar under Section 37 of the NDPS Act does not apply. He submits that despite the recovery being effected at a public place, no independent witness was joined. He further submits that no videography of the alleged recovery was done.

5. He submits that the applicant has clean antecedents. He submits that the chargesheet has already been filed in the present case and the applicant is no longer required for further investigation.

6. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. She submits that the allegations against the applicant are serious in nature. She submits a recovery of 6.125 kg of *doda post* was effected from the applicant.

7. 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.

8. In the present case, it is undisputed that only intermediate quantity of contraband has been recovered from the applicant.

9. While the alleged recovery made from the applicant is



only of intermediate quantity, there is no cavil that merely because the recovery of the quantity of contraband is intermediate in nature, the accused would *ipso facto* be entitled for grant of bail. The application would still have to be considered on its own merits, *albeit* without the bar of Section 37 of the NDPS Act.

10. It is however pertinent to note that neither any independent witness was included in the present case nor the alleged recovery of the contraband had been videographed despite the fact that the recovery has been effected after the Bharatiya Nagarik Suraksha Sanhita, 2023 has come into force which in terms of Section 105 mandates that the search and seizure ought to be recorded through any audio and video means. Only a bald averment is made that 3-4 passerby were informed about the recovery and were asked to join, however, they refused citing legitimate reasons. This Court in the case of ***Bantu v. State Govt of NCT of Delhi: 2024: DHC: 5006*** has observed that while the testimony of independent witness is sufficient to secure conviction if the same inspires confidence during the trial, however, lack of independent witnesses in certain cases can cast a doubt as to the credibility of the prosecution's case.

11. It is relevant to note that the applicant is in custody since 05.05.2025 and chargesheet has already been filed. The applicant is thus no longer required for further investigation. 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.

12. The applicant is also stated to be of clean antecedents.



13. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, 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 as and when required;
- 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.

14. 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.

15. 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.



16. The present bail application is allowed in the
aforementioned terms. Pending application also stands disposed
of.

AMIT MAHAJAN, J

OCTOBER 29, 2025

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