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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 8361/2025, CRL.M.A. 34862/2025 & CRL.M.A.
34863/2025

GAURAV MATOLIAPetitioner

Through: Mr. Naveen Malhotra, Adv.

versus

NARCOTICS CONTROL BUREAURespondent

Through: Mr. Arun Khatri, SSC for State with
Ms. Shelly Dixit, Ms. Tracy Sebastian and
Ms. Anoushka Bhalla, Advs.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER
24.11.2025

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1. By way of the present petition under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 ('BNSS'), the petitioner seeks, the
following reliefs:

- "A. That this Criminal Miscellaneous Application be admitted,
record of the lower court be summoned and examined, the
order dated 14.10.2025 passed in SC No. 448/2024 be set
aside. And/or
- B. That the alleged contraband be re-weighed/re-ascertain after
reduction/deduction of weight of transparent polythene sachets
from the alleged parcels in order to ascertain the actual weigh
of the contraband. And/or
- C. Any other order as this Hon'ble Court may deem thinks fits for
the Justice."

2. Learned counsel for the petitioner submits that vide order dated
14.10.2025, the learned Special Judge, NDPS Act, New Delhi, dismissed the



petitioner's application seeking re-weighment and re-ascertainment of the alleged contraband recovered.

3. It is further submitted that sampling proceedings were carried out before the learned Magistrate on 18.07.2024, wherein the entire alleged contraband was weighed and sampled, including the weight of the transparent polythene sachets, while determining the total quantity.

4. It is contended that the exact weight of the contraband is a crucial factor for determining the quantum of punishment under the NDPS Act, and therefore, strict adherence to the prescribed procedure is mandatory. It is urged that such procedure was not duly followed at the time of sampling in the present case.

5. *Per contra*, learned SSC for the State opposes the petition and submits that the relief sought cannot be granted in exercise of powers under Section 528 BNSS, as the same is nothing but an attempt to conduct a mini trial at the interlocutory stage. It is further submitted that the sampling took place on 18.08.2024, whereas the petitioner has approached this Court after an unexplained delay of more than one year.

6. Heard learned counsels for the parties.

7. This Court is persuaded to hold that re-testing or re-weighing of samples is generally impermissible under the NDPS Act, and may be permitted only in exceptional circumstances, that too upon specific application made within 15 days of the receipt of the test report. This position has been settled by the Hon'ble Supreme Court in ***Thana Singh v. Central Bureau of Narcotics [(2013) 2 SCC 590]***, wherein it was held:

“27. Therefore, keeping in mind the array of factors discussed above, we direct that, after the completion of necessary tests by the



laboratories concerned, results of the same must be furnished to all parties concerned with the matter. Any requests as to re-testing/re-sampling shall not be entertained under the NDPS Act as a matter of course. These may, however, be permitted, in extremely exceptional circumstances, for cogent reasons to be recorded by the Presiding Judge. An application in such rare cases must be made within a period of fifteen days of the receipt of the test report; no application for re-testing/re-sampling shall be entertained thereafter. However, in the absence of any compelling circumstances, any form of re-testing/re-sampling is strictly prohibited under the NDPS Act.”

8. The present petition seeks re-ascertainment at a significantly advanced stage of trial, after a substantial lapse of time, and appears to be aimed at delaying the proceedings. Further, this issue cannot be examined by this Court at this stage.
9. The request made by the petitioner is an apparent attempt to initiate a mini trial under the guise of a petition under Section 528 BNSS, which cannot be permitted.
10. In view of the above, the petition, along with pending application(s), if any, stands dismissed.

AJAY DIGPAUL, J

NOVEMBER 24, 2025

Sk/dd