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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 29.10.2026*

\# **CNR No. DLHC010343962026**

\+ **BAIL APPLN. 3024/2026 & CRL.M.(BAIL) 1433/2026**

SAGAR SEJWAL .....Petitioner

Through: Mr. Maninder Singh, Sr. Advocate with Ms. Simaran Chawdhary, Ms. Shambhavi Singh, Mr. Dushyant and Mr. Ayush Mishra, Advocates.

versus

STATE (GOVERNMENT OF NCT OF DELHI) .....Respondent

Through: Mr. Amit Ahlawat, APP for State with IO/ASI Sachin.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 298/2025 of Police Station Crime Branch for offence under Section 20/29 of NDPS Act.

2. Broadly speaking, allegation against the accused/applicant is that on the basis of secret information, his car was intercepted, from which 2.070 kg charas was recovered. The threshold commercial quantity of charas being 1 kg, the rigours of Section 37 NDPS Act would operate in this case.

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3. I have heard learned senior counsel for accused/applicant and learned APP for State assisted by IO/ASI Sachin.

4. Learned senior counsel for accused/applicant submits that accused/applicant deserves to be released on bail because the contraband allegedly recovered from his car had been planted. It is elaborated by learned senior counsel that according to the FIR, the car of the accused/applicant was intercepted at 11:30am and thereafter, at about 12:30pm, the IO made a telephone call to FSL, after which at about 04:00pm, the FSL team reached the spot and it is only thereafter that the contraband was allegedly recovered from car. It is submitted by learned senior counsel that all this while from 11:30am till 04:00pm, the accused/applicant was kept in a police vehicle and during this period, the contraband was planted in his car. In response to a specific query during arguments, learned senior counsel reaffirms that it is mentioned in the FIR itself that the accused/applicant was detained in a police vehicle from 11:30am to 04:00pm. It is also contended by learned senior counsel that since the provision under Section 52A(2) NDPS Act was violated by not preparing inventory of the allegedly recovered material, the accused/applicant deserves to be released on bail. In this regard, learned senior counsel places reliance on the judgment of a coordinate bench in ***Yashmin vs State (NCT of Delhi)***, 2024 SCC OnLine Del 9572. It is also contended by learned senior counsel that the Supreme Court held in the case

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of ***Abdul Rajik vs State of M.P.,*** 2026 INSC 1001 that non-compliance with Section 52A NDPS Act is fatal to prosecution case.

5. On the other hand, learned APP for State strongly opposes the bail application mainly on the ground of twin test laid down under Section 37 NDPS Act. Learned APP challenges the submissions advanced by learned senior counsel for accused/applicant and contends that there is no material to show that the accused/applicant was detained in a police vehicle, leaving opportunity for the police officials to plant the contraband in car of the accused/applicant. It is also submitted by learned APP that the inventory was duly prepared and even examined by the learned concerned magistrate at the stage of drawing of samples.

6. As mentioned above, the threshold commercial quantity *qua* charas is 1 kg and the quantity allegedly recovered from the accused/applicant was more than double the same. That being so, rigours of Section 37 NDPS Act cannot be ignored.

7. As regards the contention advanced by learned senior counsel for accused/applicant that from 11:30am to 04:00pm, the accused/applicant was detained in a police vehicle, granting opportunity to the police officials to plant the contraband in car of the accused/applicant, the learned senior counsel categorically reaffirmed that these circumstances have been narrated in the FIR itself. But on going through the entire FIR, this submission is

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found to be completely incorrect. There is not even a whisper in the FIR that the accused/applicant was in any manner kept away from his car, leaving an opportunity for the police officials to plant contraband therein.

8. Then comes the alleged non-compliance with Section 52A(2) NDPS Act. As mentioned above, according to prosecution side, an inventory was duly prepared and the learned concerned magistrate, by way of order dated 03.11.2025 (A*nnexure J to the bail application*) after examining the entire record, carried out the exercise of drawing samples from the allegedly recovered contraband.

9. So far as the judgments relied upon by the learned senior counsel as regards non-compliance of Section 52A NDPS Act, the same are of no help. The case of ***Yashmin*** (supra) did not pertain to bail in case of recovery of commercial quantity and the consequent rigours of Section 37 NDPS Act. So far as ***Abdul Rajik*** (supra) is concerned, the same was an appeal arising out of conviction and sentence of the appellant after full dress trial. Even as regards final stage of conviction or acquittal, the Supreme Court in paragraph 32 of ***Abdul Rajik*** (supra) observed that minor lapses or procedural delays may not automatically lead to acquittal, but total non-compliance with Section 52A would be a relevant factor. The present is not a case of total non-compliance in view of the detailed order dated 03.11.2025 of the learned concerned magistrate.

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10. The rigours of Section 37 NDPS Act were brought on the statute book keeping in mind the serious implications of money generated from drug dealings. Such tainted money is used in global crimes, including international terrorism. Therefore, any loose interpretation of such stringent provisions would have serious ramifications on not just economy but even security of the country. The only way inroads can be judicially carved out while dealing with Section 37 NDPS Act is through non-compliance with constitutional tenets. The aberrations or even complete non-compliance of procedural tenets cannot be a ground to ignore the twin conditions of Section 37 of NDPS Act.

11. In view of above discussion, I am unable to find it a fit case to grant bail to the accused/applicant. Therefore, the regular bail application and accompanying application are dismissed.

12. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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(JUDGE)

OCTOBER 29, 2026/*ry*

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