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

+ **BAIL APPLN. 3152/2025**

RAKHIB MIAH

....Applicant

Through: Ms. Neetu Rai, Adv. (through VC)

Versus

STATE GOVT.OF N.C.T. DELHI

...Respondent

Through: Ms. Meenakshi Dahiya, APP for State

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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26.02.2026

1. By virtue of the present bail application under *Section 483* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the applicant seeks regular bail in proceedings arising from FIR No.220/2025 dated 10.06.2025 registered at PS.: Dwarka North, New Delhi under *Sections 8/20/29* of the Narcotics Drugs and Psychotropic Substances Act, 1985 (**NDPS**).
2. Based on the contents of the FIR, the applicant and co-accused, Manju Hussain were found having *14.483 Kgs* and *14.298 Kgs* of '*Ganja*' respectively inside their respective bags.
3. Learned counsel for the applicant seeks grant of regular bail as the applicant is a young boy of 24 years with clean antecedents, and since he is in judicial custody since 10.06.2025 i.e. about *eight months*. Moreover, since *14.483 Kgs* of '*Ganja*' recovered from the possession of the applicant which is an *intermediate* quantity, the rigours of *Section 37* of the NDPS Act will not be applicable. In support, she relies upon **Muthu**



Kumar v. Station House Officer, Kottakkal Police Stn., 2008 SCC OnLine Ker 100, Sunil vs. The State of NCT of Delhi (Bail Appln.495/2022), Smt. Sachala Nauak vs. State of NCT of Delhi (Bail Appln.3351/2021) and Anita vs. State of NCT of Delhi (Bail Appln.1538/2022).

4. *Per contra*, learned APP for the State relying upon the Status Report submits that since a total of 28.781 Kgs of ‘Ganja’ was recovered from the possession of the applicant and the co-accused, the recovery is of a *commercial* quantity and the rigours of *Section 37* of the NDPS Act are attracted, more so since both the accused were apprehended together from the same spot. Even otherwise, the chargesheet has already been filed on 05.12.2025.

5. Heard learned counsel for the applicant as also the learned APP for the State and perused the documents as also the Status Report on record and also gone through the judgments cited at the Bar.

6. For the purposes of rigours of *Section 37* of the NDPS Act to be attracted, what has to be seen is the quantum recovered from the applicant *de hors* of any other quantum recovered from any other co-accused, be it at the same time or at the same spot. The said issue has been settled long back by a Division Bench of the Kerala High Court in *Muthu Kumar (supra)* wherein it has been held as under:-

“6. As far as this application is concerned, we are of the opinion that the question is mere academic. The applicants herein were charge-sheeted for offences punishable under section 20(b)(ii)(C). The allegations in the charge sheet *prima facie* show that out of the total quantity of 31.150 k.grams of ganja, the 1st accused was found carrying 15 kg. and 50 grams folded in his waste, the 2nd accused was found



in carrying 6 kgms. in a bag and 5 kgm in a suit case and 50 grams in his waste and 3rd accused was carrying 5 kg. and 50 grams in his waste. If that be so, even though total quantity as above is a commercial quantity, each of the accused was in possession of only a lesser than the commercial quantity. If the accused were not in possession of the commercial quantity, Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act will not apply. It is reported that the accused were in prison from 26-10-2007 and they had undergone 167 days imprisonment and the charge sheet was already filed. Considering the facts and circumstances of the case, we are of the opinion that this is a fit case for granting bail on stringent conditions..”

7. In fact, this Court has also followed the same view in **Smt. Sachala Nauak** (*supra*), **Anita** as also in **Sunil** (*supra*).

8. Thus, since it is an admitted case herein that only an *intermediate* quantity of 14.483 Kgs of ‘Ganja’ was recovered from the applicant, it is clear that the case of the applicant does not fall within the rigours of Section 37 of the NDPS Act.

9. Also, since the applicant herein is a young boy of 24 years with no prior antecedents and although the charge sheet has already been filed before the learned Trial Court, charges are yet to be framed and thus trial yet to commence, further judicial custody and/ or interrogation of the applicant for a prolonged period may not be necessary. More so, the applicant is facing incarceration since past *eight months*.

10. As such, in view of the aforesaid factors, the applicant is granted regular bail in FIR No.220/2025 dated 10.06.2025 registered at PS.: Dwarka North, New Delhi under Sections 8/20/29 of the NDPS Act subject to him furnishing a personal bond in the sum of Rs.50,000/- (*Rupees Fifty Thousand Only*) along with one surety of the like amount by



a family member/ friend having no criminal case pending against him and further subject to satisfaction of the learned Trial Court, as also subject to the following conditions:-

- a. Applicant shall not leave NCT of Delhi without prior permission of the concerned Court and shall ordinarily reside at the address as per TCR.
- b. Applicant shall surrender his Passport, if any, to the IO within three days of his release.
- c. Applicant shall join and participate in the investigation as and when called by the IO.
- d. Applicant shall provide all his mobile numbers to the IO concerned which shall be kept in working condition at all times.
- e. Applicant shall not indulge in any criminal activity and shall not contact any of the prosecution witnesses, or tamper with the evidence of the case.

11. Accordingly, the present application is allowed and disposed of in the aforesaid terms.

12. A copy of this order be sent to the concerned Jail Superintendent for necessary information and compliance thereof.

13. Needless to say, since the expressions of opinion, if any, are for the purposes of adjudicating the present application only, they shall have no bearing on the overall merits/ trial involved in the matter.

SAURABH BANERJEE, J.

FEBRUARY 26, 2026/So/DA