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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 5076/2025**
MOHD JABIR@ MO JAVIRPetitioner
Through: Mr. M Naved with Mr. Animesh
Rajoria and Mr. A. Bee, Advocates
versus

THE STATE GOVT. OF NCT OF DELHIRespondent
Through: Ms. Priyanka Dalal, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
02.04.2026

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1. Applicant seeks regular bail in case FIR No. 600/2024 dated 02.11.2024, registered at Police Station Swaroop Nagar, for commission of offences under Sections 20/25/29 of *Narcotic Drugs and Psychotropic Substances Act, 1985* (in short 'NDPS Act').
2. As per case of prosecution, a secret information was received on 02.11.2024 at about 03.45 am to the effect that one person with the name of Mohd. Jabir (applicant herein), who used to bring *ganja* in truck bearing No. UP15HT4284 for supply in Delhi NCR, would come near Shamshan Ghat Nala Road, Nangli Poona, Delhi and could be caught with heavy quantities of *ganja*. Information was shared with senior officers and without wasting any time, a raiding team was prepared. At about 6.00 AM, said truck, having cover of grey color *tarpaulin*, was found parked near Shamshan Ghat Nala Road. Applicant was found sitting on its driving seat. The members of the raiding team surrounded the truck and applicant was overpowered. He was apprised about the secret information and about his legal rights and since he refused his search before a Gazetted Officer or Magistrate, the truck was

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searched. There were, *inter alia*, 24 white coloured plastic bags (*katas*) which were found containing *ganja*. The total weight of such *ganja* was found to be 787.360 kgs. Applicant was arrested and the case property was deposited in the *malkhana*. During further investigation, the applicant disclosed that he was given keys of truck loaded with *ganja* and Maize(makka) from one Sudarshan Khara @Suraj @ Sonu and as per instructions of Sudarshan Khara it was brought to Delhi, for handing over to Mohd. Abid and Sonu.

3. However, these persons could not be apprehended and are still absconding.

4. Evidently, aforesaid quantity falls into the category of commercial and, therefore, bar provided under Section 37 of NDPS Act stands attracted.

5. Learned counsel for applicant submits that applicant was earlier working as bus driver with Uttar Pradesh State Road Transport Corporation (UPSRTC) for around 10 years and later on became commercial truck driver. According to him, recovery proceedings are fabricated and there are serious procedural violations. It is argued that the applicant had been picked up in an illegal manner on 01.11.2024, and on papers, it has been portrayed as if he had been arrested on 02.11.2024. He contends that there is no independent public witness and since police was acting on a tip-off, corroboration from neutral corners was imperative. It is also argued that for totally unexplained reasons, samples were sent to Forensic Science Laboratory (FSL) only on 16.01.2025 and such delay has put a big question mark over the truthfulness and veracity of the case of prosecution. It is also argued that even as per allegations appearing in the FIR, recovery was of some material which was suspected to be *ganja* and such material contained leaves, grass and seeds only as FIR mentions that the *kattas* were containing “*badbudar patti va*



beejnuma va ghasnuma padarath”.He submits that contraband in question cannot be said to be *ganja* as leaves and seeds do not comprise of *ganja*.

6. Learned APP for the State while opposing the bail *plea* of the applicant contends that the applicant is a habitual offender and has propensity to commit narcotic offences and, therefore, his bail application is liable to be dismissed. Moreover, since the case is at nascent stage, if released, he may influence prosecution witness and may even abscond.

7. Charges have already been framed and the case is at the stage of trial.

8. *Ganja* has been defined under Section 2(iii)(b) of NDPS Act as under:-

“ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and”

9. The report of FSL is very clear and the material in question has been described as ‘*dried greenish brown colour flowering and fruiting vegetative material*’ and as per specific result of the examination of such material, aforesaid material was found to be *ganja*. Though flowering tops and fruiting tops are not mentioned as such in the FIR but that, in itself, would not mean anything substantial at the present juncture. Fact remains that when the samples, which had been drawn before learned Magistrate, were sent to FSL, FSL, in no uncertain terms, gave specific description of the exhibits which were found containing *flowering and fruiting vegetative material*. As per the aforesaid definition of *ganja*, mere seeds and leaves of Cannabis plant would not be *ganja*, when not accompanied by flowering or fruiting tops. Herein, as noted, the vegetative material comprises of flowering and fruiting tops of said plant. Needless to emphasise, such report of FSL Expert, being given by Senior Scientific Officer (Chemistry), is *per se* admissible in evidence under



Section 293 Cr.P.C. (corresponding Section 329 BNSS) and, therefore, it can't be questioned or dislodged, at this moment at least. Therefore, reliance by defence upon observations made by Hon'ble Supreme Court in order dated 26.04.2023 in *Hasubhai Kamabhai Thakor Vs. The State of Gujarat {SLP (Crl) 2523 of 2023}* is completely misplaced as therein, *only ganja seeds* had been supplied for cultivation.

10. Moreover, applicant does not have clean antecedents and as per status report furnished by the State, he is involved in one another case of NDPS Act i.e. FIR No. 77/2021 registered at Police Station Araku, District Vishakhapatnam Rural, which pertains to recovery of 1140 kgs of *ganja*. Such previous history, coupled with the present involvement, clearly reflects his unabated leaning in committing narcotics offences.

11. The contention that Section 37 of the NDPS Act is not attracted is without merit. The recovery in the present case pertains to 787.360 kgs of *ganja*, which clearly falls under the category of commercial quantity and, therefore, the statutory embargo under Section 37 NDPS Act stands attracted. In order to grant bail in such cases, the *twin conditions* under Section 37 must be satisfied which includes a satisfaction that there should be reasonable grounds for believing that the applicant is not guilty of the offence and that he is not likely to commit any offence while on bail.

12. In *Narcotics Control Bureau v. Mohit Aggarwal*: 2022 SCC Online SC 891, it has been observed that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the



Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail. It summed up that the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. It also observed that dovetailed with the aforesaid satisfaction was additional consideration that the accused person is unlikely to commit any offence while on bail. In the given facts, this Court is unable to accord its satisfaction, for either of the same.

13. Since the period of incarceration, at the moment, is on the lesser side, he cannot complain of violation of Article 21 of Constitution of India either, particularly, when he is a repeat offender.

14. Consequently, no reason, much less a compelling one, exists to enlarge him on bail.

15. Application is accordingly dismissed.

16. It is, however, clarified that observations made hereinabove are for the purpose of disposal of the bail application and shall not be taken as final expression about the merits of the case.

MANOJ JAIN, J

APRIL 2, 2026/dr/sa