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

+ **BAIL APPLN. 4294/2024**

HARISH CHAND SHUKLA

.....Petitioner

Through: Mr. Aditya Aggarwal, Mr. Naveen
Panwar and Mohd. Yasir, Advocates.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for the State
with SI Khushboo Yadav, NR-1,
Crime Branch.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER
21.08.2025

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1. The applicant is before this Court having remained under incarceration since 04.05.2024, seeking indulgence of this Court for grant of bail during pendency of the trial in criminal proceedings arising out of FIR No. 79/2025 dated 14.04.2024 for alleged offences under Sections 20, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Crime Branch, Delhi.

2. Per FIR, on a receiving secret information that Sujit Kumar and his associates would be transporting cannabis/marijuana-dried leaves and flowers (ganja) in an Autorickshaw, the raiding team apprehended the three accused persons, who were identified as (1) Sujit Kumar Shah (driver); (2) Kamlesh Kumar; and (3) Ansh Shukla son of Harish Chand Shukla. All



three were informed of their rights under Section 50 NDPS Act, served with notices, and they refused to be searched before a Magistrate or Gazetted Officer.

2.1. Their personal searches yielded nothing, but on searching the auto, black suitcase carried by Sujit Kumar was found to be containing five packets of ganja weighing 24.940 kg, while a silver suitcase in the back seat contained five packets weighing 25.530 kg. In total, 50.470 kg of ganja was recovered, which was seized and sealed as per procedure. The auto was also seized, and the case was registered under Sections 20/25/29 of the NDPS Act.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would argue on the lines of grounds taken in the petition *inter alia* urging as below:-

4.1 That no recovery, whatsoever, has been effected from the present applicant and his arrest is based merely on the disclosure statement of the co-accused, who has stated that he was acting under his instructions. The applicant was not found in conscious possession of any contraband, and the alleged implication stems solely from the disclosure of co-accused, which is legally untenable.

4.2 That the alleged CDR connectivity and monetary transactions cannot be treated as conclusive material at this stage. Their probative value, if any, will be tested during the trial and cannot be a bar to bail.

4.3 That the proceedings under Section 82 Cr.P.C. Have been initiated against a co-accused, but same cannot be a ground to deny bail to applicant. Reference be had Supreme Court judgement in ***SebilElanjimpally vs State***



of Odisha, 2023 SCC OnLine SC 677, wherein it is categorically held that non-surrender of co-accused is not a germane factor to decline bail to another accused.

4.4 That the absence of videography or CCTV footage of the alleged recovery casts a serious doubt on the prosecution story. Despite the prosecution's own claim that the accused were apprehended in a public place, no videography or photographs were produced.

4.5 Lastly, learned counsel for the applicant submits that even in cases where recovery of commercial quantity was made, this Courts have granted bail considering infirmities in the prosecution's case. In the present case, no recovery has been made from the applicant at all. His case, therefore, stands on much stronger footing than that of the co-accused from whom recovery was allegedly effected. Hence, there are reasonable grounds for believing that the applicant is not guilty of the offence alleged, and the twin conditions under Section 37 of the NDPS Act are satisfied in favour of the applicant.

5. Opposing the aforesaid arguments, the Learned APP for the State would submit that in course of investigation, it has been corroborated from the bank account details of accused Harish Chandra Shukla that he had transferred a sum of ₹ 49,000/- to co-accused/source person DibakarKarad through PhonePe.

5.1 She opposes the bail plea on the ground that this is the second FIR in which the petitioner has been implicated. The one earlier was in Assam. Several other financial transactions have also been identified between accused Harish Chandra Shukla and other accused persons, including the source person DibakarKarad. These transactions further establish a deep



nexus with the syndicate engaged in unlawful activities.

5.2 She would further contend that as per the analysis of the CDRs of accused Harish Chandra Shukla and other accused persons, it has been found that between 12.04.2024 and 14.04.2024, the accused was in constant telephonic contact with other co-accused persons. This consistent communication clearly indicates his active participation in the planning and execution of the crime. She would thus submit that the material unearthed during the investigation including the call detail record as well as financial transactions show the culpability of the applicant herein.

5.3 Learned APP would also contend that an FIR No. 585/2015, registered under Section 20 NDPS Act, P.S. Bakolia, District Diphu, Assam, is still pending trial before the Diphu Court wherein also the contraband involved was similar cannabis as herein and was commercial in nature. The antecedents of the accused reflect his criminal mindset and propensity to indulge in offences of similar nature. Given his criminal antecedents and active involvement in the present case, there is every likelihood that the accused may again indulge in the commission of offences of a similar nature, if released on bail.

6. Heard and perused the case file. The prosecution's conceded case is that the recovery of the contraband is not from the possession of the applicant, conscious or otherwise. As at the relevant time, he was in Assam, whereas the incident took place in Delhi.

7. It transpires that the contraband which is stated to be cannabis (in the natural form of leaves and dried flowers, popularly also known as 'grass'/ganja) was recovered from the other co-accused. Apart therefrom, on a specific query put to the learned APP qua nature of the same, as to whether



it was in concentrated form or in the natural, it has been confirmed from the seizure memo which has been brought to the Court by the IO that the contraband was being carried indeed in the form of grass/ leaves and flowers etc. i.e. in its natural form.

8. It is only in course of the investigation that based on the disclosure statement, the name of the applicant emerged. The disclosure statement is also stated to be that of his own son, who is a juvenile as well as another co-accused, who is stated to be an acquaintance of his son.

9. Furthermore, the applicant has already been in custody for more than 1 year and 3 months and the trial is proceeding at snail's pace. As regards the applicant either jumping the bail or otherwise not making himself available during the trial or committing the repeat offences, the same seems to be rather an unfounded suspicion, as he is stated to be serving for Border Security Force as Assistant Sub Inspector though, of course, currently under suspension due to the criminal proceedings arising out of the FIR in question.

10. Applicant is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

11. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail's pace.

12. The applicant is stated to be the sole breadwinner of his family. His



wife suffers from Phaleria and swollen legs, he also has a child to take care of, and in his absence, family is moving towards literal starvation and penury.

13. Considering the totality of facts and circumstances, the stage of the trial, the role attributed to the applicant in the FIR and nature of the contraband, I am of the view that this is a fit case for granting bail to the applicant at this stage.

14. In the premise, application is allowed. The applicant is directed to be released on bail on his furnishing bail bonds and surety of an equivalent like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the usual conditions to be imposed by the learned Trial Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same. In case, applicant is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 21, 2025

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