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

% ***Date of Decision: 05.11.2026***

\# **CNR No. DLHC010536892026**

\+ **CRL.M.C. 8340/2026, Crl.M.A. Nos.34937/2026, 34938/2026**

MS. DIXITA GOLWALA .....Petitioner
Through: Mr. Chinmay Dubey, Adv.

versus

NARCOTICS CONTROL BUREAU .....Respondent
Through: Mr. Arun Khatri, SSC, Ms. Shelly Dixit ad Mr. Pranavjeet Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

Crl.M.A.34939/2026 (seeking condonation of delay of 31 days in re-filing)

1. This is an application filed seeking condonation of a delay of 31 days in refilling the present petition.

2. Considering the averments made in the application, the same is allowed and the delay of 31 days in re-filing the petition stands condoned.

3. The application stands disposed of.

CRL.M.C. 8340/2026

4. The petitioner is accused no.10 in SC No.47/2022, titled '*Narcotics Control Bureau v. Sarvothaman Guhan*', arising out of NCB Crime No. VIII/46/DZU/2021, pending before the learned SEC, Spl. Judge, NDPS-08, RACC, New Delhi.

5. The petitioner invokes Section 528 of the BNSS read with Article 227 of Constitution of India. She assails the trial court's observation of

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03.06.2026 and paragraph 10 of the order dated 16.07.2026. She seeks a direction that the documents filed by the NCB with its application dated 28.11.2022 (the first set) shall not be relied upon or put to her.

6. The factual conspectus is that the NCB filed its complaint on 31.01.2022. Cognizance was taken on 30.04.2022. By order dated 26.03.2025, charges were directed to be framed.

7. By an application dated 28.11.2022, the NCB sought to place on record notices under Section 67 of the NDPS Act and the statements of four persons with a rent agreement (the first set). By an application dated 28.01.2023, it sought to place on record data extraction reports in respect of electronic devices, along with the corresponding certificates under Section 65B of the Indian Evidence Act, 1872 (the second set).

8. On 03.06.2026, during the examination of PW-29, Himesh Kumar Modi, the petitioner objected that the notice under Section 67 of the NDPS Act and the statement of the said witness, exhibited as Ex. PW29/A and Ex. PW29/B, were not part of the record and had never been supplied. In that context, it was observed by the trial court as under:

> "***Court observation***: *The perusal of record reveals that the NCB had made an application on 28.11.2022 for filing these documents. The same was directed to be listed with file on 16.12.2022. On 16.12.2022 and on 31.01.2023 (which was the next date of hearing after 16.12.2022), the preseding officer was on leave. On the next date i.e. 01.03.2023, the copy of e-challan alongwith additional documents were supplied to the accused persons. There is no categorical observation that the documents filed on 28.11.2022 were either taken on record or the copies of the same were supplied to the accused persons. Therefore, the objection of the accused persons is not entirely without merit.*
>
> *However, since the witness related to these document is present before the Court and the documents have earlier been filed, the NCB is permitted to examine this witness w.r.t. these documents after copies of documents are supplied to the accused persons.*"

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9. By order dated 16.07.2026, the trial court held that the second set was the product of further investigation undertaken without the leave of the Court and could not be read in evidence. The prosecution did not dispute that such leave is required. As regards the first set, paragraph 10 held that the objection had already been considered on 03.06.2026 and could not be re-agitated. The relevant observations are as under:

> "*10. So far as the documents filed vide application dated 28.11.2022 are concerned, the objection regarding their production had already been considered by this Court on 03.06.2026 during the examination of PW29. Once an objection concerning the same set of documents has been judicially decided, the parties cannot ordinarily be permitted to reagitate the identical issue during the examination of another witness. The earlier order continues to bind the parties unless it is set aside or modified by a superior court.*"

10. Learned counsel for the petitioner submits that the first set was also collected after the filing of the complaint, without the leave of the Court, and that the objection on this ground has never been decided on merits. The petition is opposed on behalf of the respondent. It is submitted that the objection to the first set of documents is foreclosed on account of the order dated 03.06.2026.

11. I have given my thoughtful consideration to the matter.

12. It is noticed that the objection decided on 03.06.2026 was only to the effect that the documents were not on record and had not been supplied.

13. The trial court cured that grievance by directing that copies be supplied.

14. However, the trial Court did not consider whether the first set was the product of further investigation undertaken without leave. Paragraph 10 of

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the order dated 16.07.2026, however, treats the observation dated 03.06.2026 as a decision on the first set. The question of further investigation without leave was not considered by the Court on 03.06.2026. That question has been decided by the trial court in respect of the second set of documents and therefore remains open in respect of the first set.

15. The prosecution evidence stands concluded and the trial has reached the stage of final arguments. Further, by order dated 22.04.2026 passed in SLP (Crl.) No. 11966/2025, the Hon'ble Supreme Court has expected the trial court to proceed expeditiously, subject to the parties co-operating and not seeking unnecessary adjournments.

16. In the circumstances, the following directions are issued:

(i) The observation dated 03.06.2026 and paragraph 10 of the order dated 16.07.2026 shall not be treated as a decision on the petitioner's objection that the first set is the product of further investigation undertaken without the leave of the Court.

(ii) The petitioner may urge that objection, and any other objection as to the admissibility of the first set, in the course of final arguments.

17. The trial court shall decide the objections on merits in the final judgment.

18. The prayer for stay of the proceedings, and in the alternative for deferment of the final arguments and pronouncement of judgment, is declined.

19. The petition is disposed of in the above terms.

20. Pending applications also stand disposed of.

SACHIN DATTA, J

NOVEMBER 5, 2026/cl/vk

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