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

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Date of Decision: 06.08.2025

+ **BAIL APPLN. 2759/2025**

MOHAMMAD AAJAD@AAZAD

.....Petitioner

Through: Mr. Lokesh Payla and Shripal
Upadhyay, Advocates.

versus

THE STATE (GOVT., N.C.T. OF DELHI)

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with IO/SI Rameshwar

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. In furtherance of last order, status report was filed. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Rameshwar Prasad.

2. The accused/applicant, suffering incarceration since 01.03.2025 seeks regular bail in case FIR No. 16/2025 of PS Hazrat Nizamuddin Railway Station for offence under Section 20 of NDPS Act.

2.1 Broadly speaking, the prosecution case is as follows. On 28.02.2025 at about 10:45pm on receipt of DD No.48A at PS Hazrat Nizamuddin



Railway Station, the IO/SI Rameshwar along with HC Amzad Khan reached platform no.8 at the railway station, where Constable Mandeep and Constable Bhavar Singh were already present along with the accused/applicant.

2.2 Constable Mandeep informed that when the said two constables were patrolling at platform no.8 at around 10:15pm, they observed one person carrying a black and blue backpack in suspicious circumstances. On seeing the constables the said person became nervous and started walking swiftly. Constable Mandeep called out that person but the latter attempted to flee, so with the help of the other constable and RPF personnel, that person was apprehended.

2.3 That apprehended person is the present accused/applicant. On checking the backpack carried by him, two packets wrapped in brown adhesive tape were recovered. Those packets bore cut openings from where dry leaves and seeds emitting a strong odour were visible and the appearance was similar to *ganja*.

2.4 The IO issued notice under Section 50 NDPS Act, in response to which the accused/applicant refused to get himself searched before a magistrate.

2.5 The recovered *ganja* was found to be 2.640 kg and 2.560 kg. The total recovered *ganja* being 5.2 kg is an intermediate quantity.



3. Learned counsel for accused/applicant contends that the accused/applicant has been falsely implicated in this case and the allegedly seized material is not even *ganja* in terms with its definition under Section 2(iii)(b) of NDPS Act. Further, it is contended that the allegedly recovered material was dispatched to FSL without first testing the same with the help of the field testing kit.

4. On the other hand, learned APP for State in all fairness admits that the allegedly recovered material was not tested initially with field testing kit and was directly sent to FSL. However, it is contended by learned APP that with his experience, the IO is confident that the allegedly recovered material is *ganja* only, so the matter be adjourned awaiting FSL report.

5. Having perused the investigation file, I am of the view that if the accused/applicant deserves to be released on bail, denying him liberty for even a day awaiting FSL report would not be appropriate. It is not even certain that FSL would be able to give report in a short time, in view of its overloaded dockets.

6. More significantly, vide DD No.48A, the IO was specifically informed that Ct. Mandeep had apprehended a boy carrying a bag containing *ganja*. The IO should have carried with him the field testing kit but it was not done.

7. Further, according to the seizure memo, the allegedly recovered



material was only dried leaves and seeds. The contraband *ganja* is defined in Section 2(iii)(b) of NDPS Act as the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when not accompanied by the tops. As is obvious, there is nothing on record to show that the alleged material was accompanied with flowering or fruiting tops. That being so, *prima facie*, I find strength in the argument of learned counsel for the accused/applicant that the recovered material was not *ganja*. Consequently, adjourning the matter awaiting FSL report as requested by learned prosecutor would not be appropriate.

8. In view of the above discussion, the application is allowed and the accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the trial court.

9. It is made clear that the above observations have been recorded only for the limited purposes of dealing with bail application and these observations shall have no bearing on the final outcome of trial.

10. Copy of this order be sent to concerned Jail Superintendent for being conveyed to the accused/applicant.

GIRISH KATHPALIA
(JUDGE)

AUGUST 6, 2025/ry