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

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*Date of Decision: 12.02.2026*+ **BAIL APPLN. 1382/2025, CRL.M.A. 4912/2026 & CRL.M.A. 4830/2026**

DIPAK DAS

.....Petitioner

Through: Mr. Ranbir Singh Kundu, Ms. Suman Saharan, Mr. Naresh Kumar, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahalwat, APP for State and Ms. Shehnaz Khan, Advocate with SI Naveen, Special Staff.

+ **BAIL APPLN. 3555/2025**

RAHUL

.....Petitioner

Through: Mr. Ankaj Giri, Advocate

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Amit Ahalwat, APP for State and Ms. Shehnaz Khan, Advocate with SI Naveen, Special Staff.

**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The applicants/accused Dipak Das and Rahul seek regular bail in case FIR No. 440/2022 of Police Station Saket for the offence under Section



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20(b)(ii)(C)/25 NDPS Act.

2. These bail applications were listed for the first time on 08.04.2025 and 17.09.2025, respectively before the predecessor benches and thereafter continued getting adjourned before different benches. Today, the applications are listed before me for the first time.

3. I have heard learned counsel for accused/applicants and learned APP assisted by IO/SI Naveen.

4. Broadly speaking, prosecution case is as follows. On 04.12.2022 at about 07:30pm, on receipt of secret information by Special Staff of South District, raiding team after necessary compliances was constituted and briefed. The raiding team along with the secret informer laid a trap. At about 11:00pm, a purple black scooty was seen coming from Mehrauli towards Badarpur. The scooty driver and the pillion rider were apprehended and they disclosed their names as Rahul and Dipak Das. One plastic bag was found between legs of Rahul, and one white plastic bag was held by Dipak. The said plastic bags, on being opened were found to contain 11 packets each containing 28.100 kg Ganja. After necessary investigation, both accused persons, namely, Rahul and Dipak Das were arrested. On further interrogation, the accused Dipak Das disclosed that he had purchased 100 kg Ganja from his friends residing in West Tripura, to be sold further in Delhi. Thereafter, on the disclosure statement of accused Dipak Das, two white plastic bags, each containing nine packets of Ganja to the tune of 23.188 kg and 23.300 kg were recovered. While being on police remand,



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the accused persons were further interrogated regarding source of the Ganja. On 16.12.2022, accused Dipak Das was consigned to judicial custody, after which on 19.12.2022 application for sampling was filed before the learned court of Sessions and the same was assigned to the concerned Magistrate for 21.12.2022. On 21.12.2022, the learned Magistrate could not take up the matter due to heavy load and it was adjourned to 02.01.2023. On 02.01.2023 sampling of the recovered Ganja was conducted before the Magistrate and on 06.01.2023, it was deposited in FSL.

5. Against the above backdrop, it is contended on behalf of accused Dipak Das that the prosecution case appears to be a fabricated one because the admitted position is that during forenoon of 04.12.2022, the said accused applicant was illegally picked by the Special Staff and thereafter booked in the present case. Learned counsel for accused Dipak Das also contends that on account of delay in sending the sample to FSL, the accused/applicant deserves bail. It is also contended that grounds of arrest were not furnished to the accused/applicant, so he deserves bail. Lastly, it is argued that trial itself is being delayed, so the accused/applicant deserves bail.

6. Learned counsel for accused Rahul also contends that Rahul is innocent. It is contended that since no independent witness was joined in the alleged recovery and no videography was carried out, the accused deserves bail. It is also argued that despite directions dated 19.12.2024 passed by a coordinate bench to expedite the trial, till date only one witness has been partly examined.



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7. In support of their arguments that delay in sending samples to FSL is a ground for bail; that delay in trial is a ground for bail; that non-supply of grounds of arrest is a ground for bail, learned counsel for both accused/applicants have referred to certain judicial precedents. The legal position on these procedural lapses was elaborately discussed by the Supreme Court most recently in the case of ***State of Karnataka vs. Sri Darshan***, SLP(Crl.) No. 516-522 of 2025. And that legal position is contrary to these contentions raised on behalf of the accused/applicant.

8. On the other hand, learned APP for the State explains that there was no delay in sending the samples to FSL in view of the circumstances mentioned in paragraph 4 above as regards the dates during which the application remained pending in Court. It is also contended by learned APP that looking into such vast expanse of investigation, coupled with the fact that the IO went to Tripura for recovery of further contraband, there is no delay in sending the samples. Learned APP also explains that the accused/applicants have tried to fabricate suspicion by making reference to the alleged apprehending of the accused/applicant in the forenoon of 04.12.2022, and that is explainable.

9. To begin with, as regards the arguments related to non-supply of grounds of arrest and delay in sending the samples to FSL, the Supreme Court in the case of ***Sri Darshan*** (supra) examined these aspects in detail and held that the procedural lapses in furnishing grounds of arrest in the absence of prejudice, do not *ipso facto* render the custody illegal or entitlement of the accused to bail.



10. Further, as explained by learned prosecutor, at the time of producing the accused/applicants before the learned Special Judge, the grounds of arrest in detail were duly furnished and after appreciation of the same, the learned Special Judge granted police custody of both accused/applicants.

11. In the case of **Sri Darshan** (supra), the Supreme Court held that mere absence of written communication of grounds of arrest would not in itself be a ground to grant bail unless demonstrable prejudice is shown. The gravity of offence and existence of *prima facie* case cannot be overlooked at this stage. Further, in the present case also like in the case of **Sri Darshan** (supra) there is no allegation that copy of the arrest memo was not furnished to the accused/applicants. As was in the case of **Sri Darshan** (supra), in the present case also, the arrest memos of the accused/applicants and remand records do not show that the accused/applicants were unaware of the reasons of their arrest. Nothing has been produced to show any prejudice caused to the accused/applicants on account of the alleged procedural lapses.

12. As regards the apprehending of the accused/applicant Dipak Das, I find substance in the submission of the learned prosecutor that this argument has been created only to fabricate a suspicion in the mind of the court. In this regard, learned APP has taken me through a copy of DD No. 05 dated 04.12.2022 of Special Staff, South District according to which at 03:00pm, it was recorded that on the basis of secret information, ASI Naresh with his team apprehended the accused Dipak at about 01:15pm but after making necessary questioning, discharged him. The apprehending of the accused/applicant in the present case was at 11:15pm, as mentioned above.



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It is not unbelievable that in the forenoon a person is apprehended but discharged after necessary questioning and in the night, the same person is apprehended with the contraband.

13. Coming to the delay in trial, I have examined the ordersheets of the trial court placed on record in the bail application of accused Dipak Das. Keeping in mind the dockets of the Special Courts, I am unable to find it to be a case of any delay in trial. On almost each date, effective proceedings were carried out and even the periods between dates of hearing cannot be said to be unjustifiably long adjournments.

14. I am unable to find any circumstance that could satisfy the Court that there are reasonable grounds for believing that the accused/applicants are not guilty of the offences charged with and that they are not likely to commit any offence while on bail.

15. Therefore, both bail applications are dismissed.

**GIRISH KATHPALIA  
(JUDGE)**

**FEBRUARY 12, 2026**  
**‘rs’**