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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 25.03.2026*+ **BAIL APPLN. 1603/2025 & CRL.M.A. 32137/2025**

GUDEPU NAGESHWAR RAO

.....Petitioner

Through: Mr. Pratyush Prasana and Ms.
Samuya Yadav, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Vineet Kumar.**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 297/2020 of Police Station Kashmere Gate for offence under Section 20/29 NDPS Act.

1.1 This bail application came up for the first hearing on 28.04.2025 before the predecessor bench and thereafter continued getting adjourned before different benches. Along with 179 such old pending bail applications, this application also was transferred to this bench.

1.2 Today is the first hearing before me. I have heard learned counsel for accused/applicant as well as learned APP assisted by IO/SI Vineet Kumar.



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2. Broadly speaking, prosecution case is that on the basis of secret information, specifically naming three persons, including the present accused/applicant as suppliers of *ganja*, a trap was laid and the said three accused persons along with one more person were apprehended. The accused persons were found carrying 08 plastic bags which contained 82 packets of *ganja*. The present accused/applicant and his co-accused Poleju Babu Rao were holding the plastic bag, while accused Solai Raj was placing the *ganja* packets in the same after lifting the packets from ground. On being weighed, the total quantity of recovered *ganja* came out to be 181.050 kg, which is much more than even the commercial quantity.

3. Learned counsel for accused/applicant seeks bail on the ground that there was no independent public witness and the proceedings were neither photographed nor videographed. It is also submitted that since there is no clarity from investigation side as to by what mode the accused/applicant travelled from Andhra Pradesh, version of the prosecution does not appear believable. It is also contended by learned counsel that since it is not possible for two persons to carry 181 kg, the prosecution version is not believable. Learned counsel for accused/applicant also submits that accused/applicant is in custody since 17.10.2020 and trial is yet to conclude, so on the ground of delay in trial also, the accused/applicant is entitled to be released on bail.

4. On the other hand, learned prosecutor strongly opposes the bail application contending that the present case fails at the anvil of the twin



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conditions laid down under Section 37 NDPS Act. Learned prosecutor submits that the commercial quantity of *ganja* as per law is 20 kg, while in the present case quantity of *ganja* recovered from the accused/applicant and his associates was 181.05 kg, which is a much higher quantity. As regards the delay in trial, learned APP submits that there is no undue delay, which can be taken as a ground to release the accused/applicant on bail in such a serious offence, punishable with imprisonment which shall not be less than 10 years but which may extend to 20 years.

5. So far as the alleged delay in trial is concerned, learned counsel for accused/applicant has shown me copies of the ordersheets of the trial court and after perusal thereof, I am in agreement with the learned prosecutor that this is not the case of such delay that could make the court ignore the twin conditions laid down under Section 37 NDPS Act. On almost each date, effective proceedings were conducted before the trial court. Few hearings were ineffective solely for the reason that either the Presiding Officer was on leave or there was no public prosecutor available.

5.1 Further, in view of nature of the trial proceedings, it cannot be disputed that recording testimony of each recovery witness in such cases consumes a lot of time, because the entire sequence of the recovery proceedings has to be testified and the case property has to be identified by the witness. In such circumstances, if a witness is partly examined and further examination is deferred, the adjournment cannot be treated as delay. The court cannot ignore the ground realities under which trials in all



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criminal cases, especially the cases under NDPS Act, have to be conducted. Quite often, when the allegedly recovered contraband is opened in the courtroom to be shown to the witness for identification, opening the same leads to obnoxious and dangerous fumes, which leads to Passovers till the fumes disintegrate. It is not easy to get the recovered contraband identified from the witness. The delay has to be understood in terms of these aspects also, besides the acute shortage of judges, prosecutors and even investigators. The delay has also to be understood on the basis of the total board load of the concerned court.

5.2 Besides, the Supreme Court in the case of *Union of India vs Vigin K. Varghese*, 2025 SCC OnLine SC 2440, held that offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing, in the sense that Section 37 of the NDPS Act enacts specific embargo on grant of bail and obligates the court to record satisfaction on the twin conditions; and that mere prolonged incarceration and likely delay cannot justify grant of bail in such cases without crossing the hurdle of the twin conditions laid down under Section 37 NDPS Act.

5.3 It is also disclosed by both sides that out of 17 prosecution witnesses, 07 have already been examined and they have supported prosecution. Besides that, one more witness is already in the witness box.

6. The remaining arguments advanced on behalf of the accused/applicant as recorded above do not help the accused/applicant in crossing the hurdle of



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twin conditions laid down under Section 37 NDPS Act.

7. Considering the above circumstances, I am unable to find it a fit case to grant bail at this stage.

8. Therefore, the bail application and the accompanying application are dismissed. However, the learned trial court is requested to expedite the trial despite all odds mentioned above.

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

**GIRISH KATHPALIA
(JUDGE)**

MARCH 25, 2026/ry