



2025:DHC:6358



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

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*Date of decision: 1<sup>st</sup> August, 2025*

+ BAIL APPLN. 1626/2025

VINAY SHARMA

.....Petitioner

Through: Mr. Aditya Aggarwal, Mr. Manas Aggarwal, Mr. Naveen Panwar, Mohd. Yasir and Mr. Manvi Gupta, Advs.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State. SI Rajendra Meena, Anti-Narcotics, Squad West, Delhi.

**CORAM:**

**HON'BLE MR. JUSTICE ARUN MONGA**

**ARUN MONGA, J. (Oral)**

1. Claiming himself to be falsely implicated, the applicant herein is before this Court seeking bail for alleged offences committed in FIR No. 349/2022 under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), registered at Police Station Inder Puri, West, Delhi.

2. Succinctly speaking, per FIR, the prosecution's case is that on 10.08.2022 at around 9:00 AM, ASI Karan Singh received a secret tip-off that one Vinay Sharma, a resident of Bihar, who allegedly supplies ganja in



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various areas of Delhi, would be arriving near Todapur Village Road between 10:00 and 10:30 AM for this purpose. Acting on the information, a raiding team comprising ASI Karan Singh, HC Vijay, HC Lekhraj, and the secret informer, all in civil attire, departed from the Narcotics Squad office and arrived the specified location at approximately 10:10 AM. Around 10:20 AM, an auto arrived from which a man alighted carrying a white bag in his hand and a black bag on his shoulder; the secret informer identified him as the applicant, Vinay Sharma, and then left the scene. ASI Karan Singh alerted his team and moved to apprehend the applicant, who, upon spotting the police, dropped his bag and attempted to flee into the village. He was soon apprehended by the police team and brought back to the location where he had dropped the bag. A personal search of the applicant yielded no incriminating material; however, a search of the white bag revealed two packets containing a total of 21.508 kg of ganja.

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

4. Learned counsel for the applicant strenuously relies on the decision of this Court in *Ashok Kumar @ Lala vs. State Govt. of NCT of Delhi*, 2024 SCC OnLine Del 6923 (Bail Application No. 1814/2024), wherein it was held that the alleged recovery of 1 kg and 100 grams of Charas, being only marginally above the threshold of commercial quantity, warranted scrutiny at the trial stage to determine whether the quantity was actually commercial or intermediate. Counsel submits that a similar approach should be adopted in the present case.

4.1 Counsel also draws attention to the judgment of the High Court of



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Punjab and Haryana in *Gurprabh Singh @ Prince vs. State of Punjab*, CRM-M-50716-2024, decided on 27.02.2025, where bail was granted despite the recovery being marginally over the commercial threshold (261 grams of Tramadol Hydrochloride as against the 250-gram limit), particularly because the petitioner was a first-time offender. It is submitted that the same principle applies here as well.

4.2 Further, counsel contends that the recovery in this case lacks any videographic or photographic documentation, even though the petitioner was apprehended in a public place and the raiding team had access to mobile phones and other technological means. He argues that such an omission raises serious doubts about the genuineness of the recovery process. Reliance is placed on *Bantu vs. State Govt. of NCT of Delhi*, 2024 SCC OnLine Del 4671 (Bail Application No. 2287/2022, decided on 08.07.2024), where this Court emphasized the necessity of videography in drug recoveries and referred to the *Drug Law Enforcement Field Officers' Handbook* issued by the NCB, which mandates that recoveries should be videographed to ensure transparency and accountability.

4.3 Counsel further argues that there is no independent witness to support the recovery, even though it allegedly occurred during the day in a public space. This omission, he submits, gravely undermines the prosecution's version. He relies on *Sanjay vs. State Govt. of NCT of Delhi*, 2023 SCC OnLine Del 4487, where this Court held that absence of videography, combined with a lack of independent witnesses, significantly weakens the prosecution's case. He also cites *Pascal Ezeigbo @ Prince vs. State Govt. of NCT of Delhi* (Bail Application No. 3494/2024, decided on 31.01.2025),



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where the Court granted bail due to the absence of independent corroboration, noting that this satisfied the twin conditions under Section 37(1)(b)(ii) of the NDPS Act.

4.4 It is next submitted that the petitioner has remained in judicial custody since 10.08.2022 and yet, out of eighteen prosecution witnesses, only three formal witnesses have been examined so far. Counsel emphasizes that this delay is not attributable to the petitioner, but rather to repeated non-appearance or unavailability of prosecution witnesses. He relies on ***Tarkeshwar Singh @ Rakesh Singh vs. State Govt. of NCT of Delhi***, 2025 SCC OnLine Del 661 (Bail Application No. 4442/2024), where the applicant was granted regular bail after over two years and three months in custody in a case involving similar recovery. He also cites ***Najir Hussain vs. State NCT of Delhi***, 2025 SCC OnLine Del 1801 (Bail Application No. 3810/2024, decided on 25.03.2025), where coordinate benches granted bail based solely on prolonged custody, even in cases involving larger recoveries.

4.5 He relies on ***Man Mandal & Anr. vs. The State of West Bengal***, 2023 SCC OnLine SC 1868 (Crl. SLP No. 8656/2023, decided on 14.09.2023), where the Supreme Court granted bail considering the prolonged incarceration and slim prospects of the trial concluding soon.

4.6 Lastly, it is submitted that the applicant was previously granted interim bail by the learned Trial Court vide order dated 24.10.2024, and surrendered without breaching any conditions or misusing the liberty extended to him. Counsel asserts that the continued incarceration of the applicant serves no meaningful purpose and, given that he has no prior



criminal antecedents, he deserves to be considered for regular bail.

5. On the other hand, learned APP appearing for the State strongly opposes the bail plea, contending that in light of the quantity of contraband recovered—21.508 kilograms of Ganja—from the conscious possession of the applicant, the rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act) are attracted. It is submitted that the applicant does not satisfy the twin conditions under Section 37(1)(b), and therefore, is not entitled to the concession of bail.

5.1 She argues that the raid was conducted strictly in accordance with the procedural safeguards mandated under Section 42 of the NDPS Act, including proper documentation and compliance with requirements concerning search and seizure.

5.2 It is further submitted by her that the applicant was duly served with a notice under Section 50 of the NDPS Act, informing him of his legal right to be searched before a Magistrate or a Gazetted Officer, thereby ensuring procedural compliance during the recovery process.

6. I have heard the submissions of both sides and am of the considered view that the applicant deserves to be released on bail during the pendency of the trial. The petitioner has already undergone nearly three years of incarceration, and the progress of the trial has been exceptionally slow, with only 3 out of 18 prosecution witnesses examined so far. This prolonged pre-trial detention, combined with the sluggish pace of proceedings, are contributory factors in favour of granting bail—particularly when similarly situated undertrials have been granted bail by this Court in comparable circumstances in the cases cited by learned counsel for the applicant.



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7. Moreover, the quantity of Ganja allegedly recovered from the applicant is only marginally above the threshold of commercial quantity under the NDPS Act. The commercial quantity for Ganja is 20 kilograms, whereas the alleged recovery in the present case is 21.508 kilograms. In such a scenario, the strict application of the rigours of Section 37 of the NDPS Act may not be justified and warrants a more nuanced consideration.

8. While the prosecution reliance on Section 37 is ultimately a matter for trial, the submissions made on his behalf do not really present a credible case for denial of bail. As for the likelihood of the applicant committing a similar offence if released, there is no indication of any previous criminal record or antecedents, making such a possibility appear remote at this stage.

9. As for the apprehension of tampering with evidence, it is pertinent to note that the contraband and other material evidence have already been seized and are securely in the custody of the prosecution, rendering any risk of tampering illusory and/or mere suspicion. With regard to the concern of influencing witnesses, the majority of the witnesses in this case are police or official personnel associated with the prosecution, and no material has been shown to suggest the applicant has ever attempted to influence them.

10. Accordingly, the application is allowed. Applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

11. Nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application.



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In case applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case *vide* instant order.

**AUGUST 01, 2025**

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**ARUN MONGA, J**