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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 07.07.2025*+ **BAIL APPLN. 4063/2024**

VAKIL SINGH

..... Petitioner

Through: Mr. Dhanjay Sehrawat and Ms.
Nischal Khanna, Advocates.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr. Arun Khatri, Ms. Shelly
Dixit and Ms. Tracy Sebastian,
Advocates.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J (ORAL)**

1. By way of the instant application, the applicant seeks grant of regular bail in case bearing number: Crime/File No.VIII/69/DZU/2021, registered for commission of offence under Sections 8/20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [hereafter '*NDPS Act*'], at Police Station NCB, R.K. Puram, New Delhi.

2. Brief facts of the case, as per prosecution, are that on 08.11.2021, acting on secret information, officers of the Narcotics Control Bureau (NCB) had seized 306 kg of *ganja* from the premises of Professional Courier Company, Naraina, New Delhi. The



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consignment had been sent from Andhra Pradesh to Delhi and was booked without valid identification documents. During inquiry, Mr. Singha, Operations Manager of the courier company, disclosed that a phone call had been received from Visakhapatnam, Andhra Pradesh, and the parcels were to be delivered to the Karol Bagh branch, where someone would come to collect them. It was further revealed that the suspected consignee was one Rajesh, whose mobile number was mentioned on the parcel. Acting upon this information, the NCB officials had transported the parcel to the Karol Bagh branch. After some time, two individuals, namely Rajesh and Vakil Singh (present applicant), arrived at the said office, inquired about the parcel, and one of them, Vakil Singh, provided a copy of his Aadhaar Card and signed the receipt to take delivery. Upon questioning, they disclosed that they had come to collect the parcel to hand it over to the “main party” waiting near PP Jewellers, Karol Bagh. The NCB officers accompanied them and the parcel vehicle to the said location, where Rajesh identified another individual and conversed with him. The NCB officers then intercepted the said person, who disclosed his name as Arun Kumar Azad, and was apprehended on the spot. Arun Kumar Azad disclosed that the seized contraband was to be supplied to one Pradeep Mandal. Later on, Pradeep Mandal was also arrested. It is alleged that co-accused Pradeep had disclosed that the parcels had to be further delivered to co-accused Lagnu Mahto. Pursuant to the same, the house of co-accused Lagnu Mahto was searched and 1.4 kg of *ganja* and a sum of Rs.4,90,000/- was recovered from there.



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3. The learned counsel appearing for the applicant submits that the applicant has falsely been implicated in the present case, and that he had merely accompanied co-accused Rajesh at his request. He further contends that the prosecution's allegation that the applicant had provided his Aadhaar card is false, as the consignment in question was booked in the name of Rajesh, and there was no reason for the applicant to furnish his Aadhaar card for its collection. He also argues that the Investigating Officer (IO) in the present case was not duly authorized to conduct the investigation under the provisions of the NDPS Act. It is submitted that no recovery was made from the applicant and that there has been an inordinate delay of 12 days in filing the application under Section 52A of the NDPS Act, whereas Standing Order 1/88 mandates that the samples drawn from the seized contraband must be sent to the FSL for examination within 72 hours of seizure. Non-compliance with the said requirement, it is argued, is fatal to the prosecution's case. The learned counsel for the applicant also points out that co-accused Lagnu Mahto has already been granted bail by the learned Trial Court, co-accused Arun Kumar Azad was granted bail by this Court on 02.04.2024, and co-accused Pradeep Mandal was granted bail by this Court on 29.05.2024. It is further submitted that the applicant has no past criminal antecedents, and therefore, the bar under Section 37 of the NDPS Act is not attracted in the present case. It is further argued that the applicant has been in judicial custody since 08.11.2021 and has already spent about three and a half years in incarceration as an undertrial prisoner. The



learned counsel submits that the trial is likely to take considerable time to conclude, and therefore, the applicant may be released on bail. Thus, it is prayed that the present applicant be released on bail.

4. The learned counsel appearing for the NCB, on the other hand, opposes the bail application and submits that a recovery of 307.400 kg of *ganja*, which is a commercial quantity, has been affected in the present case. He contends that the parcel containing the contraband was booked without valid identification or supporting documents. It is further submitted that two persons, including the present applicant, had arrived at the courier office in Delhi and made inquiries regarding the said parcel. To receive the parcel, the applicant had provided his Aadhaar card, signed the receipt, and unloaded the parcel from the vehicle, following which both the consignee, Rajesh Singh, and the present applicant were apprehended. The learned counsel further states that there is clear connectivity between the applicant and co-accused Rajesh Singh on the date of seizure, and that recovery of commercial quantity of contraband establishes the applicant's involvement. He also submits that no recovery was made from co-accused Arun Kumar Azad, nor had he come to the courier office to collect the parcel; therefore, the applicant cannot claim parity with Arun Kumar Azad, who was granted bail. It is further argued that the bar under Section 37 of the NDPS Act is clearly attracted in the present case, considering that the contraband recovered is of commercial quantity.

5. This Court has **heard** arguments addressed on behalf of both



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the parties and has perused the material available on record.

6. In the present case, the prosecution alleges that on 08.11.2021, officers of the NCB, acting on specific intelligence, had intercepted a consignment containing 306 kg of *ganja* at the premises of a courier company in Naraina, New Delhi. The consignment had been booked from Andhra Pradesh without valid identity documents. Upon inquiry, the officials were informed that two individuals would collect the parcel from the Karol Bagh branch. Subsequently, two persons, i.e., Rajesh and the present applicant Vakil Singh had arrived at the Karol Bagh office and attempted to collect the parcel, following which a chain of apprehensions led to the arrest of other co-accused, allegedly forming part of a larger drug distribution network.

7. Insofar as the specific role of the present applicant Vakil Singh is concerned, the record indicates that he had accompanied co-accused Rajesh to the courier branch to take delivery of the consignment containing 306 kgs of *ganja*. He is stated to have produced his Aadhaar card, signed the parcel receipt, and assisted in taking delivery of the parcel. Both the applicant and co-accused Rajesh were apprehended at the spot. They had disclosed that the consignment was to be handed over to a third person, co-accused Arun Kumar Azad, who was also apprehended during the attempted delivery. Furthermore, there is CDR evidence indicating communication between the applicant and co-accused Rajesh.



8. A copy of the alleged receipts signed by the present applicant has been placed on record by the NCB. Significantly, no plausible explanation has been furnished by the learned counsel for the applicant as to why the applicant had furnished his Aadhaar card and signed the parcel receipt if, as claimed, he had no connection with the consignment or with co-accused Rajesh.

9. As regards the argument of parity, the co-accused persons Arun Kumar Azad and Pradeep Mandal stand on a different footing. There was no recovery from their possession, and unlike the applicant, they were not the ones who had arrived to take physical delivery of the contraband. The present applicant's role is far more direct and proximate to the actual recovery and chain of possession. Thus, the plea of grant of bail on the ground of parity is unmerited.

10. The contention that Section 37 of the NDPS Act is not attracted is also without merit. The recovery in this case pertains to 306 kg of *ganja*, which clearly falls under the category of commercial quantity as per the statutory threshold. Therefore, the bar under Section 37 of the NDPS Act squarely applies. In order to grant bail in such cases, the twin conditions under Section 37 must be satisfied. This includes a satisfaction that there should be reasonable grounds for believing that the applicant is not guilty of the offence and that he is not likely to commit any offence while on bail. In the case of *Union of India v. Prateek Shukla*: (2021) 5 SCC 430, *State v. Lokesh Chadha*: (2021) 5 SCC 724, and *Narcotics Control Bureau v. Mohit Aggarwal*: 2022 SCC Online SC 891, it was held by the



Hon'ble Supreme Court that the provisions of Section 37 of NDPS Act have to be applied strictly at the time of deciding bail application of an accused.

11. Considering the facts and circumstances discussed above, the present case does not inspire such satisfaction at this stage. Thus, in view of the nature and gravity of allegations, the material available on record, and the direct involvement of the applicant in taking delivery of the contraband, this Court is of the view that the applicant does not meet the threshold required under Section 37 of the NDPS Act.

12. As far as the argument of learned counsel for the applicant, that provisions of Section 52A of the NDPS Act were not followed by the NBC since there was a delay of about 12 days in filing the application for sampling, is concerned, this Court finds the same unmerited. In this regard, it is apposite to note that the Hon'ble Supreme Court in *Narcotics Control Bureau v. Kashif*: 2024 SCC OnLine SC 3848 has held that any procedural irregularity or illegality found to have been committed in conducting the search or seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible, and any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail.

13. Therefore, this Court is of the view that no case for grant of



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bail is made out at this stage.

14. Accordingly, the present bail application is dismissed.
15. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.
16. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 07, 2025/vc