



2025:DHC:7495



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

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*Date of Decision: 29.08.2025*

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**BAIL APPLN. 2465/2025**

ABDUL MALIK ALIAS PARVEZ

.....Petitioner

Through: Mr. Akshay Bhandari and Mr. Anmol  
Sachdeva, Advocates

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for State with  
Inspector Arvind Kumar and ASI  
Mahesh Kumar, AGS/Crime Branch**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 10/24 of PS Crime Branch for offence under Section 20/23/29 of NDPS Act. I have heard learned counsel for accused/applicant as well as learned APP for State assisted by IO/Inspector Arvind Kumar.

2. Broadly speaking, quantity of the *ganja* allegedly recovered at the instance of the accused/applicant is only 871grams, which is a small quantity and possession thereof is a bailable offence; but the larger issue is the allegation that the accused/applicant is a part of an international drug



syndicate and in the present FIR, the alleged recovery of 5137 grams of *ganja* (*which in itself is not a commercial quantity*) is connected to the accused/applicant as he is involved in conspiracy, punishable under Section 29 of the NDPS Act.

2.1 The factual matrix as alleged by prosecution is as follows. At the Foreign Post Office (FPO), four parcels suspected to be containing *ganja* were intercepted. On being opened, those parcels were found to contain a total quantity of 5137 grams *ganja*. The addresses of the recipients on those parcels were found to be fake. With the help of mobile phone numbers of the recipients mentioned on those parcels, the IO retrieved IMEI numbers of the phone that had used those SIM cards and one of those IMEI numbers belonged to the present accused/applicant.

2.2 The co-accused Mayank Nayyar was granted bail by this Court vide order dated 07.08.2025 in Bail Application No. 1548/2025 after elaborate discussion.

3. In the above backdrop, learned counsel for accused/applicant contends that the accused/applicant has been falsely involved in this case and at the most on account of recovery of 871 grams *ganja*, he has a right to be released on bail. Learned counsel for accused/applicant, taking me through the chargesheet (*at pdf 107 of the paperbook*) points out that even according to the case set up by prosecution, it was only a “possibility” that the accused/applicant would have come to FPO to collect the parcels. Further, taking me through *pdf 94* of the paperbook, forming part of the



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chargesheet, learned counsel for accused/applicant points out that SIM card of the mobile phone number allegedly mentioned on those parcels was never recovered and in any case, the said SIM card was issued to one K. Venkataiah; and that in the phone of the accused/applicant, the SIM card was used only from 28.01.2024 onwards, whereas the alleged parcels were recovered on 05.01.2024, so he cannot be connected with the same.

4. On the other hand, learned prosecutor argues that it is a case of an international syndicate and the accused/applicant is the mastermind. Learned APP submits that even the mobile phone location of the accused/applicant at the time of recovery of the parcels was at the same place, in the sense that the parcels were to be delivered at Lajpat Nagar and to be moved to New Friends Colony, and in both those areas, the accused/applicant was found present on the basis of his mobile phone location. Further, learned APP contends that the quality of *ganja* recovered from the accused/applicant is the same as that found in the four parcels recovered at FPO and in this regard, the only material referred to is the visual observation of the IO. Learned APP also contends that although the NDPS Act does not make any distinction, but the American *ganja*, which was recovered in this case is much more expensive than Indian *ganja*. In support of his arguments, learned APP places reliance on the Order dated 13.05.2025 of the Hon'ble Supreme Court in the case titled ***Harpreet Singh Talwar @ Kabir Talwar vs The State of Gujarat through National Investigating Agency***, 2025 INSC 662.



5. To begin with, the Supreme Court Order in the case of ***Harpreet Singh Talwar*** (supra) was on completely distinguishable circumstances in view of not just the quantity of the allegedly recovered contraband (2988.21 kg heroin) but also rest of the material establishing *prima facie* complicity of the said accused in conspiracy and the offence involved was also under the Unlawful Activities (Prevention) Act and special circumstances related to the witnesses as described in paragraphs 30 and 31 of the said order.

6. In the present case, as mentioned above, the only incriminating evidence against the accused/applicant is the recovery of 871 grams *ganja*, which is a small quantity and possession whereof is a bailable offence. As regards the parcels containing 5137 grams of *ganja*, which is an intermediate quantity, falling out of the rigours of Section 37 NDPS Act, even according to prosecution there was only a “possibility” that the present accused/applicant would collect those parcels from FPO.

7. I am unable to accept the argument that merely on the basis of visual observations of the IO, the *ganja* allegedly recovered from the accused/applicant can be said to be qualitatively similar to the *ganja* allegedly found in those four parcels and therefore the present accused/applicant can be connected with the latter. Admittedly, there is no forensic report in that regard. Similarly, merely because American *ganja* is more expensive than Indian *ganja*, culpability does not increase in the former. The NDPS Act does not make any distinction between Indian *ganja* and American *ganja*.



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8. As regards the evidence related to the alleged conspiracy role of the accused/applicant, merely because of his presence in the area of the contraband, detected on the basis of his mobile phone location, his connection with the alleged transaction cannot be inferred. For, the mobile phone location is detected from mobile phone tower, which would cover hundreds of persons present in the area. In order to establish the charge of conspiracy, the prosecution has to bring some more cogent evidence. As mentioned above, the SIM card of the mobile phone number allegedly found mentioned on the parcels was issued to some K. Venkatiah and not the accused/applicant; and further, even the mobile phone in question was used by the accused/applicant much subsequent to the alleged recovery of the parcels of the contraband.

9. Considering the above circumstances, I find no reason to deprive the accused/applicant liberty. Therefore, the application is allowed and the accused/applicant is directed to be released on regular 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 learned trial court.

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

**GIRISH KATHPALIA  
(JUDGE)**

**AUGUST 29, 2025/as**