

Bail Appln.. No.1612/25
STATE VS. SHINING STAR @ SAM
FIR No. 506/24
PS-MAIDAN GARHI

09.09.2025

Present :- Sh. Jagdamba Pandey, Ld. Addl. PP for State.
Sh. Akshay Bhandari, Ms. Megha Saroa and Sh.
Janak Raj Ambavat, Ld. Counsel for the applicant /
accused.

This is the an application u/s 483 BNSS for grant of
regular bail moved on behalf of accused Shining Star @ Sam.

Reply to the same was filed by SI Dinesh Kumar.

I have considered the rival contentions and perused
the record.

1.0 As per the story of the prosecution, during the
investigation of case FIR No. 461/24 u/s 140(2) BNS, PS Neb
Sarai, SI Vineet from PS Neb Sarai alongwith police staff had
raided H. No. 67, 2nd floor, Village Rajpur Khurd, New Delhi,
where accused Amit Pathak and two others namely Abhishek
Kumar and Karan Kumar were found, who had allegedly abducted
Vivika and Bovito. Search of the premises led to recovery of
3.119kgs of ganja. As such, the present FIR was registered and all
the five persons were arrested.

1.1 The investigation revealed that said Vivika and
Bovito had gone to the aforesaid house to deliver the contraband
substance. However, they were abducted by the other co-accused
persons namely Amit, Abhishek and Karan Kumar. The
investigation further revealed that accused persons used to procure
ganja from Meghalaya and used to sell the same in Delhi. Various

raids were conducted at Shillong, Meghalaya and further recoveries were also effected in the matter and several persons were arrested. A total of 74kgs approximate ganja was recovered in the present case.

1.2 During the course of investigation, on the instance of accused Bovito, his brother accused Hitoka was also arrested. Hitoka disclosed that he used to supply ganja to Sunny, Ashutosh and others in Delhi after purchasing the same from accused Shining Star @ Sam, who is a resident of Shillong, Meghalaya. On the instance of accused Hitoka, accused Bahadur Mura @ Sunny was arrested and at his instance, 1016gms of ganja was recovered. Further, accused Hitoka also led the raiding team to the shop of accused Shining Star in Shillong, Meghalaya, from where 20.15kgs of ganja was recovered. Accused Shining Star @ Sam disclosed the source of ganja to be one Bahhah. Efforts were made to trace out said Bahhah, however, no clue regarding said Bahhah was found. Later, accused Ashutosh Gurung who is a resident of Tinsukhia, Assam was also arrested.

2.0 Ld. Addl. PP assisted by IO argued that the present applicant was an active member of the drug syndicate and he used to supply ganja to co-accused Hitoka. It was further argued that a total of approx. 74 kgs of ganja has been recovered in this case. It is further argued that even individual recovery from the present applicant is 20.15kgs of ganja which falls under the commercial quantity and therefore, rigors of Sec. 37 NDPS Act are applicable.

2.1 Ld. Counsel for the applicant / accused argued that the applicant was not informed of grounds of arrest neither at the

time of his arrest nor at any time thereafter. It was argued that due to the said reason alone, the arrest stands vitiated and that the applicant has become entitled for grant of bail.

2.2 It was further argued that the alleged recovery at the instance of the present applicant is not 20.15kgs. It was pointed out that the gross weight of the two plastic bags / kattas including the weight of the packing material was 11.92 kgs and 8.23 kgs totalling 20.15kgs. However, when the weight of two pulandas was taken before the Ld. Magistrate during the proceedings u/S 52A NDPS Act, same came to be 11.788kgs and 8.160kgs, totalling 19.948kgs (including the weight of the packing material). On being asked, the IO also confirmed the same. The same shows that the recovered quantity was less than threshold of commercial quantity of ganja of 20 kgs.

2.3 Ld. Counsel for the applicant placed reliance upon the decision of the Hon'ble High Court in ***Chandan Kumar Vs. State***, Bail Appln. No. 2552/2024 decided on 27.11.2024. The relevant portion is reproduced herein under:

5. Separately recovery effected from the possession of the petitioner admittedly falls in intermediate quantity. The question is whether the recovery effected from all three accused persons can be added so as to make it true as commercial quantity.

6. In [Muthu Kumar vs. SHO2008](#) (2) KLT 890, inter-alia held as under:

"5. As far as this application is concerned, we are of the opinion that the question is mereacademic. These applicants herein were charge- sheeted for offence punishable under [Section20\(b\)\(ii\)\(c\)](#). The allegations

in the charge-sheet prima facie show that out of the total This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 27/11/2024 at 22:29:30 quantity of 31.150 kilograms of ganja, the 1st accused was found carrying 15 kilogram and 50 grams folded in his waist, the 2nd accused was found in carrying 6 kilograms in a bag and 5 kilograms in a suitcase and 50 grams in his waist and 3rd accused was carrying 5 kilograms in a bag and 50 grams in his waist. If that be so, even though total quantity as above is a commercial quantity, each of the accused was in possession of only a lesser than the commercial quantity. If the accused were not in possession of the commercial quantity, Section 20 (b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act will not apply. It is reported that the accused were in prison from 26.10.2007 and they had undergone 167 days imprisonment and the charge-sheet was already filed. Considering the facts and circumstances of the case, we are of the opinion that this is a fit case for granting bail on stringent conditions."

7. Thus, a bare perusal of this judgment make it clear that even though total quantity recovered from all the accused persons are commercial quantity, however, if each of the accused persons was in possession of quantity lesser than commercial quantity, rigours of [Section 37](#) of NDPS Act will not be applicable.

8. The coordinate bench of this Court, in [Smt. Sachala Nauak v. State of NCT of Delhi \(Bail Application 3351/2021, order dated 30.09.2021\)](#), relying on [Muthu Kumar and Ors. \(Supra\)](#), admitted the accused to bail. Similarly, in [Anita v. State \(NCT of Delhi\) \(Bail Application 1538/2022, order dated 20.07.2022\)](#), the Court considered whether the recovery made from a co-accused could be attributed to the applicant. Referring to [Muthu Kumar \(supra\)](#) and [Raju Diwakar @ Pappu v. The State \(Bail Application 44/2020, order dated 13.02.2020\)](#), the

Court held that recoveries from co-accused cannot be attributed to the petitioner. Reliance can also be placed on [Sunil v. The State of NCT of Delhi \(Bail Application 495/2022\)](#).

9. Thus, it is no longer res integra that recoveries made from co-accused cannot be attributed to another accused. Since there is admittedly prolonged This is a digitally signed order.

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2.4 Further, in **Anita @ Kallu Vs. State NCT of Delhi**, 2023 DHC 4934, **Nawab Vs. State NCT of Delhi**, Bail Appln. No. 2458/2024 decided on 05.08.2024, **Chhalimubdin Vs. State NCT of Delhi**, 2025 DHC 2162, **Soni Vs. State NCT of Delhi**, Bail Appln. No. 401/2025 decided on 27.03.2025 and **Meena Vs. State** 2025 DHC 6549, a consistent view has been taken by the Hon’ble Delhi High Court that where recovery of contraband has been effected from two or more co-accused persons, the recovery cannot be clubbed together to bring the same within the meansing of commercial quantity and that the proper course is to consider individual recovery from each of the accused persons.

3.0 As noted above, the individual recovery from the present applicant falls under the intermediate category. Further, in view of ratio of the aforesaid decisions, the recovery from co-accused persons cannot be added or clubbed to the quantity recovered from the possession of the present applicant for the

purpose of deciding his bail application. As such, rigors of Sec. 37 NDPS Act would not apply.

3.1 Investigation in the matter is complete and chargesheet has already been filed. The applicant does not have any previous involvement. He has remained in custody since 10.12.2024. No purpose would be served by further detention of the applicant / accused. Accordingly, **the applicant / accused Shining Star @ Sam is admitted to bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one surety in the like amount.**

Application stand disposed of accordingly.

Copy of the order be sent to Jail Supdt via email.

Copy of the order be given dasti.

(Gaurav Gupta)
Special Judge-NDPS/ASJ (South)
Saket Courts/09.09.2025