

FIR No.1101/2025
PS Burari
State Vs. Ram Kumar

30.05.2026

Present: Sh. K. P. Singh, Ld. Addl. PP for State.
Sh. Zakir Hussain, Ld. Counsel for
accused/applicant.
ASI Sridhar on behalf of the IO in person.

1. Reply filed by the IO. Copy has already been supplied.
2. By way of the present application, the applicant/accused namely Ram Kumar S/o Sh. Dev Narayan seeks grant of regular bail in the subject FIR, registered under the relevant provisions of NDPS Act, PS Crime Branch.
3. In view of the fact that the instant application is the 2nd Bail application, filed by the accused/applicant, at the very outset of the hearing of the instant application, on last date of hearing, a pointed query was made to Ld. Counsel for the accused/applicant as to the change of circumstances, that have taken place since the dismissal of the first bail application of the accused/applicant and/or the new grounds, which have been agitated in the instant bail application.
4. In reply, Ld. Counsel for the accused/applicant failed to expressly point out any material change of circumstances since dismissal of earlier bail application on 25.03.2026. However, he submits that by virtue of the instant bail application, it has been agitated that the Ld. Predecessor had erroneously dismissed the earlier 1st bail application of the accused/applicant without taking into consideration, the applicable law as laid down by Hon'ble Constitutional Courts.

5. It has been argued that the conclusion arrived at the time of dismissal of earlier bail application, in respect of the issue pertaining to the procedure/steps, which were required to be taken by the investigation agency for correctly weighing of the alleged recovered substance, from the possession of the accused has not been decided correctly. It has been argued that the conclusion arrived at by the investigating agency, the prosecution and by the Ld. Predecessor while dismissing the 1st bail application, in respect of the weight of the recovered substance, which is alleged to be Ganja, is ex facie incorrect. It is submitted that in light of the law laid down by Hon'ble High Court of Delhi, in cases titled as "*Ashok Kumar Vs. State*", Bail Application No.2962/2015, case titled as "*Dilip Vs. State*", Bail App. No. 2330/2008 dated 02.07.2010, in case titled as "*Anav Jain Vs. State of Haryana*", CRM-M No.51512/2022 dated 01.12.2022 by Hon'ble Punjab and Haryana High Court, in case titled as "*Dinesh Rajod & Ors. Vs. Union of India*", Crl. Appeal No.542/2024 dated 23.07.2024 passed by Hon'ble High Court of Madhya Pradesh and in case titled as "*Chandrashekar Vs. State of Karnataka*", Crl. Petition No.11138/2024 dated 29.04.2025, passed by Hon'ble High Court of Karnataka, it was mandatorily required that from the recovered substance, the flowering or fruiting tops were to be segregated from the seeds and leaves and the said flowering or fruiting tops (*in terms of Section 2(iii)(b) of NDPS Act, which defines Ganja*) which qualifies as Ganja was only required to be weighed for purpose of ascertainment of the precise quantity. It has been argued that consequently, it was erroneously held that the rigorous of section 37 of NDPS Act are applicable to the facts of the subject FIR qua the accused/applicant and which led to refusal of grant of bail to the accused/applicant.

6. During the course of submissions, advanced today, Ld. Counsel for the accused/applicant had reiterated that bare perusal of the seizure memo,

reveals that the seized substance contained seeds and leaves, which were mixed with flowering tops and despite the same, astonishingly prior to the conduct of the sampling proceedings under section 52A of NDPS Act, before the Court of Ld. JMIC, the said exercise for segregation of the seeds and leaves from the flowering tops was not conducted by the Investigating Officer. At the same time, the Ld. JMIC also failed to ensure that the said segregation exercise was duly conducted prior to the sampling proceedings which were held before him. On the said basis, it was agitated that had the said exercise of segregation been conducted by the Investigating Officer or by the Ld. JMIC, before whom the sampling proceedings were carried out, the actual weight of the seized substance (*alleged to be Ganja*), would have revealed and in all probability, the weight of the actual contraband (*Ganja*), would have been much below the weight of the recovered substance. It was submitted that in such scenario, it was highly probable that the weight of the contraband would have reduced below 20 kg. Resultantly, the Bar of section 37 NDPS Act would not have been applicable to the facts of subject FIR qua the accused/applicant.

7. Thus, in substance, it has been argued that an erroneous approach, which was adopted by the Ld. Predecessor, while adjudicating the earlier bail application has seriously prejudiced the accused as his right to be enlarged on bail has been illegally curtailed by attracting the rigours of Section 37 of the NDPS Act.

8. *Per contra*, Ld. Addl. PP for State has argued that the instant bail application filed on behalf of accused/ applicant is not maintainable and that the instant bail application ought to be dismissed by this Court at the very threshold as the applicant/accused has failed to agitate any new ground for grant of bail, which was not raised in earlier bail application, which was dismissed on 25.03.2026. It has been submitted that the ground raised in the

instant application has been dealt with, in comprehensive manner, by the Ld. Predecessor in order dated 25.03.2026.

9. Submissions heard. File perused.

10. It is no longer res-integra that an accused can file successive bail applications, however same can only be entertained by the Court provided there is a change in the circumstances or any fresh/ new ground is raised in the subsequent bail application. In this context, it is pertinent to refer the law laid down by the Hon'ble Supreme Court of India in case titled as **Lt. Col. Prasad Shrikant Purohit V. State of Maharashtra, (2018) 11 SCC 458'**, wherein, it has been held as follows:

“30. Before concluding, we must note that though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.”

11. A bare perusal of order dated 25.03.2026 vide which the earlier bail application of the accused/ applicant was dismissed by Ld. Predecessor reveals that the legal issue primarily agitated in the instant bail application pertaining to the question of the total weight of the contraband, which was allegedly recovered from the possession of the accused/applicant was comprehensively dealt with.

12. Taking into consideration the attendant facts and circumstances of the subject FIR, the material placed on record by prosecution, which was collected during the course of investigation and in light of law laid down by Hon'ble Supreme Court in case titled as “**Hira Singh Vs. Union of India**”, Crl. Appeal No.722/2017 dated 22.02.2022, in order dated 25.03.2026, it was

concluded that the facts of the instant FIR, not only warrant but justify the conclusion that the quantity of Ganja, allegedly recovered from the possession of the accused was more than 30 kgs. Consequently, the rigours of Section 37 of NDPS Act are rightly attracted to the facts of the subject FIR pertaining to accused/applicant.

13. As a sequitur to above discussion, inescapably, the bar of Section 37 of NDPS Act is attracted to the facts of the subject FIR and the onus to prove the existence of twin conditions contained in Section 37 of the NDPS Act is upon the accused/applicant, which he has failed to discharge. Consequently, the instant bail application of the accused/applicant namely Ram Kumar S/o Sh. Dev Narayan stands **dismissed**.

14. Application stands **disposed of** accordingly.

The observations made on the merits of the case are purely for the purposes of deciding the present bail application and shall not be construed as expression upon the merits of the case.

Copy of the order be given dasti to the IO as well as to the Ld. Counsel for applicant/ accused and be communicated to the applicant/ accused through Jail Superintendent for information.

(PUNEET NAGPAL)
Special Judge, NDPS,
Central, THC, Delhi/30.05.2026