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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 674/2015
RAKESH ARORA Petitioner
Through: Mr. S.S. Das, Adv.
versus

D R I Respondent
Through: Mr. Satish Aggarwala, Sr.P.P.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **21.05.2015**

While dealing with the bail application of co-accused Manoj Kumar, a learned Judge of this Court has observed that Section 37 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is not attracted in the present case since 'pseudoephedrine' is not a narcotic substance. Learned counsel for the petitioner submits that pseudoephedrine is a 'controlled substance'. He further submits that petitioner is in custody for the last two years. Investigations are complete. Petitioner was granted interim bail which concession he has not misused. Learned counsel further contends that trial may take time and petitioner cannot be kept in judicial custody for an indefinite period.

It is further contended that in Bail Appln. 216/2005 titled N.C.

Chellathambi vs. Narcotic Control Bureau, a learned Single Judge of this Court, vide order dated 20th April, 2005, granted bail to the accused even though one ton of ephedrine was recovered from him. In Bail Appln. 2036/2004 titled Ajay Aggarwal vs. Narcotic Control Bureau, a learned Single Judge of this Court, vide order dated 20th January, 2005, released the accused on bail even though 1600 litres of acetic anhydride was recovered. In Crl. M.C. 27654/2008 titled Rajiv Kumar @ Sukha vs. State of Punjab, vide order dated 6th March, 2009, learned Single Judge of Punjab & Haryana High Court granted bail to the accused from whom 25 kgs 'ephedrine hydrochloride' was recovered. In Crl. Appln. No. 165/2011 titled Faiyaz Ahmed Rasool Shaikh vs. Union of India, 93 kgs of ephedrine was recovered; whereas in Chakrapani Dutt vs. State CDJ 2006 HDC 528, 100 litres of acetic anhydride was recovered. It is submitted that seized material in the said cases was also a 'controlled substance'.

Learned Senior Public Prosecutor has vehemently opposed the bail application. He contends that co-accused Manoj was merely an employee; whereas petitioner is the kingpin which is evident from the observations made in the order passed in the bail application of Manoj Kumar. It is further contended that learned Single Judge had granted bail to Manoj Kumar since

he was taken as an employee of petitioner. It is further contended that large quantity has been recovered from the petitioner, thus, he cannot be released on bail more so when he is engaged in this illegal trade through his firms M/s S.K. Medicos and M/s S.N. Pharma. It is further contended that petitioner's involvement in other cases is also under investigation.

Investigations are complete. Petitioner is in judicial custody for the last 24 months. 183 kg of 'pseudoephedrine' was recovered from him, which is not a narcotic substance. Keeping in mind totality of the circumstances, petitioner is admitted to bail subject to his furnishing a personal bond in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of trial court. Petitioner shall not leave the country without the leave of trial. He shall submit his passport, if any, before the trial court at the time of furnishing of bail bond.

Bail application is disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

MAY 21, 2015

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