

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of hearing and Order: March 14, 2017

+ BAIL APPLN. 321/2017
PRADEEP KUMAR GUPTA Petitioner
Through: Mr. Shantanu Sagar, Mr. Roopak
Sahu, Advocates

versus

STATE (NCT) OF DELHI Respondent
Through: Mr. Akshai Malik, Additional Public
Prosecutor for the State with Inspector
Manoj (Crime)

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
ORDER
P.S.TEJI, J. (Oral)

1. By this petition filed under Section 438 read with Section 482 of Cr. P.C., the petitioner is seeking bail in a case registered vide FIR No.0158 dated 14.09.2016 under Section 20/25/29 NDPS Act, at Police Station Crime Branch, Delhi.

2. The facts as enumerated in the status report filed on behalf of the State are that on 14.09.2016 a secret information was received in Narcotics Cell that a truck driver, carrying ganja in Truck No. UP 63J 9752 from Chhatisgarh and Odisha was coming to supply ganja near Pitampura, Delhi. The information was reduced in writing vide DD No.3 dated 14.09.2016, Narcotics Cell, Crime Branch, Delhi. Team was deployed near the identified spot. On the instance of the informer,

two persons namely Amrik Singh and Ram Kumar were apprehended. After complying with the mandatory provisions of NDPS Act, formal search of Amrik Singh and his truck was conducted and 425 Kgs Ganja was recovered in 17 plastic katte (bags) from his truck. From the search of Ram Kumar and his Maruti Eeco 75 Kgs ganja was recovered in 3 plastic katte. FIR was registered and all the accused persons were arrested, sample of contraband sent to FSL, Rohini, Delhi, result collected therefrom. The accused persons disclosed that the ganja was to be delivered to one Pradeep Jha (i.e. petitioner herein). On the identification of Ram Kumar, Pradeep Kumar was arrested. Accused Ram Kumar disclosed that the petitioner is a peddler of Ganja in Delhi.

3. It is further mentioned in the status report that during the investigation, the petitioner did not join the investigation. Non-bailable warrants were issued against him and thereafter proceedings under Section 82 Cr.P.C. were initiated vide order dated 22.12.2016 against him. The earlier anticipatory bail of the petitioner has already been dismissed vide order dated 20.12.2016 passed by learned Additional Sessions Judge. Now the petitioner has applied for anticipatory bail before this court.

4. Learned counsel for the petitioner contended that the petitioner has been wrongly roped in the present case on the basis of confessional statement of the co-accused Amrik Singh, which is not admissible in law; name of the petitioner is not mentioned in the FIR;

petitioner is a resident of Bihar and running a sweet shop and is not involved in any criminal case.

5. On the contrary, Mr. Akshai Malik, learned Additional Public Prosecutor for the State contended that the petitioner was the main receiver of the recovered contraband. Custodial interrogation of the accused is required to unearth the source of contraband. The accused is a proclaimed offender and thus, does not deserve the concession of anticipatory bail.

6. I have gone through the contentions raised by the petitioner in the present petition and also heard the submissions of learned Additional Public Prosecutor for the State and also gone through the contents of FIR.

7. Perusal of the record shows that the present accused has been booked in a case under Section 20/25/29 of NDPS Act. The recovery of contraband effected in the present case falls under the commercial quantity as per the NDPS Act, seriousness of the allegations, and the role of the petitioner alleged that he was the receiver of the consignment which was seized by the police. Apparently, the investigation of the case is at the initial stage and as per the prosecution, custodial interrogation of the petitioner is necessary to find the source of the recovered contraband.

8. In view of the facts and circumstances mentioned above, recovery of commercial quantity of ganja from the co-accused persons

and the role assigned to the petitioner, especially when the proceedings under Section 82 Cr.P.C. have been initiated against the petitioner vide order dated 22.12.2016 of learned Additional Sessions Judge and its report was submitted in the court on 03.02.2017, this court is not inclined to grant anticipatory bail to the petitioner in this case.

9. Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

10. With aforesaid direction, the present bail application stands disposed of.

(P.S.TEJI)
JUDGE

MARCH 14, 2017
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