

\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 772/2018 & CrI.M.A. 6339/2018**

KANHAIYA

..... Petitioner

Through: Mr. C.M. Sangwan & Mr. Sandeep
Duhan, Advs.

versus

THE STATE (GOVT. OF NCT DELHI)

..... Respondent

Through: Mr. K.S. Ahuja, APP for the State
with ASI Dalbir Singh, Spl. Staff.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

%

30.10.2018

The petitioner Kanhaiya was one of the four persons who were travelling in a motor vehicle (a car) driven by co-accused Ganga Prasad on 22.11.2017 when it was intercepted, the other persons also travelling in the same vehicle being Pankaj and Mohd. Shanu Rehman @ Irshad. During the search that was carried out on the basis statedly of some information, 120 grams of heroine (smack) was recovered from the possession of Mohd. Shanu Rehman @ Irshad. Concededly, no recovery was effected from any of the other three persons including Ganga Prasad (the driver), the petitioner and the other person Pankaj who were passengers in the said vehicle. Ganga Prasad was released on bail by this Court on his Bail Application No. 2606/2017 by order dated 30.01.2018. Though charge has been framed by the Special Judge against the petitioner, it has to be borne in mind that the

case against him primarily rests on he being in the company of the person from whose possession the contraband was recovered, there seemingly being no explanation for the purpose of the journey undertaken, the case of prosecution being that it was with the objective of procuring narcotic drugs. The prosecution refers to the statement made by the petitioner during interrogation. On being asked, the learned additional public prosecutor conceded that no recovery of any incriminating material pursuant to the disclosures made in the said interrogation has been effected from or at the instance of the petitioner.

The prosecution also refers to the criminal antecedents of the petitioner referring in this context particularly to FIR No. 969/2014 of police station K.N. Katju Marg involving offence punishable under Section 379/411 IPC. The learned public prosecutor fairly conceded that the offence in the said case has been compromised and consequently the petitioner was granted bail by order dated 07.09.2017 of the court of Magistrate.

In the facts and circumstances, on parity with Ganga Prasad, the prayer of the petitioner is allowed. It is directed that upon he furnishing personal bond in the sum of Rs. 1 lakh with one surety of the like amount to the satisfaction of the trial court, he shall stand released on bail subject to following further conditions:-

- (i). Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the trial court.
- (ii). He shall scrupulously appear at each and every stage of the proceedings before the trial court so as not to cause any obstruction or delay

to its progress.

(iii). He shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(iv). He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and

(v). He shall not leave India without the prior permission of the court of cognizance or the trial court, as the case may be, and to ensure due compliance with this condition and shall deposit his passport, if he holds one, with the said court.

The bail application is disposed of in these terms.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J

OCTOBER 30, 2018

nk