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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on: 15.11.2019

+ **BAIL APPLN. 1852/2019**

Devender Rai

..... Petitioner

Through: Mr. Ravi Drall and
Mr. Ankit Malik, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through Mr. G. M. Farooqui,
APP for State along with ASI
Dinesh Kumar, PS Mundka.

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.(oral)

1. Vide this order I shall dispose of a bail application filed u/s. 439 CrPC by the petitioner **Devender Rai** in FIR No. 081/2019 u/s. 20/61/85 NDPS Act, P.S. Mundka.

2. Ld. Counsel for the petitioner has prayed for bail on the ground that petitioner is innocent and has been falsely implicated. It is submitted that as per the FIR, petitioner was apprehended by police officials on scooty along with co-accused and he was carrying Ganja in a suitcase. He was arrested on 27.02.2019 and charge-sheet was

filed against him. It is submitted that petitioner aged about 21 years is a law abiding citizen who has never been found guilty of violating the law. The FIR was lodged on 09.02.2019 and chargesheet was submitted in the month of May, 2019 but still no charge has been framed so far against him. It is submitted that the FSL report of the alleged case property has not been placed on record by the investigation agency for the last 5 months. The recovery of alleged Ganja is not “*Commercial Quantity*” and, therefore, the strict provision of NDPS Act are not attracted.

3. It is further submitted that “*Presumption of Innocence*” is a golden rule of the Criminal Legal System that has been considered to be one of the paramount principles in criminal jurisprudence. The grant of bail ought not to be denied only on the perceived apprehension by the Court that the petitioner, if restored to liberty, will tamper with the evidence or because of possibility of his involvement in the case. The object of bail is neither punitive nor preventive but is meant to secure presence of the accused during the trial. It is, therefore, prayed that petitioner be released on bail in the interest of justice.

4. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. Petitioner is involved in an offence of carrying 12 kg 'Ganja' along with his co-accused. He has, therefore prayed for dismissal of the bail application.

5. I have considered the rival submissions. The present case was registered on 27.02.2019 on the information received by HC Pardeep, regarding supply of Ganja by two persons at Hind Viahir Fatak, Mundka, Delhi. The information was conveyed to SHO, Mundka. HC Pardeep was ordered to take further necessary action and he formed a raiding party including Ct. Ajeet, Ct. Ravinder and Ct. Devender and reached at the place of information. At about 4:40 pm at the pointing out of the informer, two boys namely, Devender Rai i.e. petitioner and co-accused Sandeep came on a Scooty without number plate and reached at the spot and were overpowered by HC Pardeep with the help of staff. Thereafter, SI Ramesh reached at the spot and search was made in the presence of ACP/Sub- Division Nangloi, Delhi. On search of the petitioner namely Devender Rai, 12 kgs of Ganja (in six packets, each packet having a weight of 2kgs duly packed with a

yellow colour tape) was recovered from his possession from a Green colour Bag. Thereafter, ownership of the scooty (without number plate) was checked and found that the same was stolen vide e-FIR No. 008602/18 u/s 379 IPC Police Station Paschim Vihar Delhi. The same was also taken into police possession through seizure memo u/s 102 CrPC. The case was registered and investigation was carried out. Seized exhibits were sent to FSL, Rohini vide Road Certificate 30/21/19 dated 8/3/19 for opinion. The result of examination report is "On Physical Microscopic, Chemical and TLC examination, exhibits 'S-1', 'S-2', 'S-3', 'S-4', 'S-5' and 'S-6' were found to be Ganja (Cannabis). Keeping in view the above facts i.e. recovery of 12 kg of 'Ganja' and nature of allegations leveled against the petitioner, no grounds for bail are made out. The bail application is, therefore, dismissed.

BRIJESH SETHI, J

NOVEMBER 15, 2019

Amit