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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3086/2019**

INDERJIT SINGH

..... Petitioner

Through Mr Yogesh Saxena, Advocate and
Ms Priya Saxena, Advocate.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through Mr P.C. Aggarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.12.2019

1. The petitioner has filed the present petition, *inter alia*, praying for grant of bail in S.C. No. 431/2018 under Sections 21, 22 & 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
2. It is alleged that on 02.06.2018, a secret information was received by the respondent (hereafter 'NCB'). On the basis of the said information, one car (Swift Dezire – Car No. PB-52B-0887) was intercepted. The petitioner and the co-accused (Taljinder Singh) were present in the car. Their search was conducted and one packet was recovered from the right-side pocket of the trousers of the petitioner. It is alleged that the said packet contained 100 grams of Heroin. The petitioner's co-accused Taljinder Singh was also searched, however, no contraband was recovered from him.
3. It is the prosecution's case that preliminary inquiries were conducted and the petitioner had disclosed that he had purchased the illicit substance

from one John Ifeanyi.

4. The status report indicates that NCB developed certain intelligence and the house of John Ifeanyi was searched. The said search allegedly resulted in recovery of 415 grams of Heroin, 180 grams of Cocaine and 215 grams of Methamphetamine. It is further stated that one Sisse Mamadou was also present in the other house and during investigation, he disclosed that he was also involved in carrying on the business of drugs with John Ifeanyi.

5. Admittedly, the quantity recovered from the petitioner is below the commercial quantity.

6. It is also admitted that petitioner's search was not carried out before any gazetted officer or a Magistrate. In view of the above, the petitioner contends that that said search was not in conformity with Section 50 of the NDPS Act and relies upon the decision of the Supreme Court in ***Arif Khan v. State of Uttarakhand: AIR 2018 SC 2123*** in support of his contention.

7. It is also contended by the petitioner that there is no material to indicate that the petitioner is involved in any trading of drugs, as the quantity allegedly recovered from him is lower than commercial quantity.

8. It is apparent that the contentions raised by the petitioner are not unsubstantial. The petitioner was not searched in presence of a Magistrate or a Gazetted officer. *Prima facie*, this falls foul of the law as applied in ***Arif Khan v. State of Uttarakhand*** (*supra*). Since the quantity recovered from the petitioner is below the commercial quantity, this Court has no reason to believe that the petitioner would indulge in any trading of drugs if released on bail.

9. In view of the above, this Court considers it apposite to allow the present petition. The petitioner is released on bail on submission of personal

bond in the sum of ₹50,000/- with two sureties of the equivalent amount to the satisfaction of the Trial court. The petitioner shall also report to the SHO of the local police station on every second and fourth Monday of the calendar month at 10.30 a.m. He shall also provide his mobile number and ensure that he is reachable on the said number at all times.

10. The petition is allowed in the aforesaid terms.

11. Order *dasti* under the signature of Court Master.

DECEMBER 20, 2019

pkv

VIBHU BAKHRU, J