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

% **Date of Decision: 11.02.2020**

+ **BAIL APPLN. 3074/2019**

ASHWANI @ KALI

..... Petitioner

Through: Mr. Vishal Raj Sehijpal and
Mr. Anwar A.Khan,
Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI

..... Respondent

Through: Mr. G.M.Garlooqui, Ld. APP
for the State
ASI Narain Dass: PS
Mahendra park.

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 under section 439 Cr.P.C. by the petitioner **Ashwani @ Kali** in FIR No. 321/2019 u/s. 21/61/85 NDPS Act, PS Mahindra Park, New Delhi.

2. Ld. Counsel for the petitioner has prayed for bail on the grounds that petitioner is innocent and has been falsely implicated.

Petitioner is in judicial custody since 01.08.2019. It is submitted that allegation of recovery of 5 gram 170 m.g. of heroin/smack from the possession of petitioner is absolutely false and fabricated and the alleged contraband was never in possession of the petitioner. It is, therefore, prayed that petitioner be granted bail in the interest of justice.

3. Ld. Counsel for the petitioner has relied upon the following case law:-

- a. Mohd. Navi v. State, 2018 SCC Online Del 12959;*
- b. Ajaz Mohd. Shafi Khan v. State of Maharashtra, 2018 SCC Online Bom 20682;*
- c. Salma Suleman Shaikh v. State of Maharashtra, 2018 SCC Online Bom 13261.*

4. I have gone through the said case law. However, the same are distinguishable on the basis of facts and circumstances stated therein. Moreover, no straitjacket formula can be laid down for grant of bail. Each case depends upon its own peculiar facts and circumstances.

5. Ld. APP for the state has opposed the bail application on the ground that allegations against the petitioner are serious in nature. Petitioner is a serial offender and is involved in number of other

cases. Ld. APP for the state has, therefore prayed for dismissal of the bail application.

6. I have considered the rival submissions. The prosecution version is that on 31.07.2019, petitioner was apprehended and on his personal search 5 gram 170 m. gram heroin/smack was recovered from his right hand fist.

7. Perusal of record reveals that petitioner is also stated to be previously involved in the following cases:-

Sl.no.	FIR no. & PS	Under Section
1	224/2011-Adarsh Nagar	379/356/34 IPC
2	378/2016, Jahangirpuri	393/34 IPC
3	264/2018, Jahangirpuri	323/341/34 IPC

8. Ld. Counsel for the petitioner has, however, argued that FIR No. 264/2018 stands compounded and petitioner stands acquitted in FIR No. 224/2011 and is on bail in FIR no. 378/2016. Ld. APP for the State, however, submits that he is not aware of the said facts. However, even if the submissions of Ld. Counsel for the petitioner are believed, the petitioner is still involved in FIR No. 378/2016

under Section 393/34 IPC.

9. In view of above facts and keeping in mind the nature of offence and previous involvement of the petitioner, no grounds for bail are made out at this stage. The bail application is, therefore, dismissed and stands disposed of accordingly.

FEBRUARY 11, 2020

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BRIJESH SETHI, J

