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

+ **BAIL APPLN. 2923/2019**

PUSHPENDER SHARMA @ AARUSH Petitioner
Through: Mr.Anish Dabas, Mr. Yatender Khatri
and Mr.Mohit Advocates

versus

STATE Respondent
Through: Mr.Kewal Singh Ahuja, APP for State
With SI Shekhar and SI Baljeet PS
Mahindra Park

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **07.01.2020**

In terms of order dated 24.12.2019, the Trial Court Record had been requisitioned and received.

Vide the present petition, the applicant has sought grant of bail in relation to FIR No. 166/2019, under Section 21 of the NDPS Act, 1985 registered at Police Station Mahindra Park, submitting inter alia to the effect that he has been falsely implicated in the instant case. The FIR relates to a date of an incident of 19.4.2019 with the time of occurrence being 7:10 p.m. i.e. 19.10 hours. The status report submitted by the State, as initially submitted, states to the effect that the applicant along with the other co-accused persons was apprehended at 7.10.p.m. in a white colour car bearing registration

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no. DL1RTB 9620 at the service road, near Adarsh Nagar Metro Station, Delhi and that three person were apprehended on the information of the secret informer and on the search having been conducted of the vehicle which was driven by the present applicant with another person sitting on the rear seat of the driver seat, **as per the Status Report** thereupon the recovery was effected allegedly of heroin weighing 50.2 gms in the dash board of the car.

It is, at this stage, pointed out on behalf of the petitioner and on behalf of the State that as per the averments in the police report under Section 173 of the Cr.P.C. and in the police report at page 36 it has been pointed out that as per the police report under Section 173 Cr.P.C., the applicant is indicated to have been seated at the rear seat of the vehicle and was not the driver of the vehicle in question.

It has been submitted during the course of submissions that had been addressed previously to the effect that the applicant had been apprehended on 18.4.2019 along with the Motorcycle bearing No. DL 3S DX 2210 in as much as he was driving the same without a helmet and had been taken to the police station at Mahindra Park and thereafter had telephonically informed his wife of the same but was subsequently implicated in the FIR in question which is stated to have been registered on 19.4.2019. A complaint in relation thereto is stated to have been made by the wife of the applicant to the DCP Police Station Mahindra Park on 19.4.2019. It is submitted on behalf of the State that this complaint was made by the wife of the applicant much after the filing of the chargesheet, having been filed on 9.8.2019.

During the course of submissions that have been made on behalf of the petitioner in support of the contentions to the effect that the applicant had been falsely implicated, reliance was placed on the personal search memo of the applicant at page 58 which is indicated to be dated 19.4.2019 at the end of the said Arrest Memo but is dated 18.4.2019 at the top of the same. The time of arrest in the said document was shown to have been altered from 11 p.m. to 11 a.m.. In these circumstances, it was considered essential to peruse the Trial Court Record in original which has since been received and it is indicated that Annexure-F (Colly) placed at page 58 is a correct photocopy of the original record.

In these circumstances, without any observations on the merits or demerits of the trial despite the submissions made on behalf of the State even as per the subsequent status report filed to the effect in relation to the DD No. 55A at 22.45 hours dated 19.4.2019, at Police Station Mahindra Park to the effect that the investigation was marked to SI Baljeet Singh on the endorsement of ASI Jagat Singh and that the petitioner was arrested on 19.4.2019 at 11 p.m. and the Investigating Officer had made a DD entry vide DD No. 70A at 2.32 a.m. dated 20.4.2019 at the Police Station Mahindra Park with copies of the DD entries in relation thereto having been placed on record of the Trial Court Record at page 75, thereof, the applicant in the instant case is allowed to be released on bail during pendency of the trial on filing of a bail bond in the sum of Rs.100,000/- with two sureties each of the like amount to the satisfaction of the Trial Court with the

directions that he shall not leave the country, shall not tamper with the evidence and shall commit no offence whatsoever.

In the event of there being any FIR registered against the applicant, the State shall bring it to the notice of the Court forthwith. Nothing stated herein shall however amount to any expression on the merits or demerits of the trial.

Bail Appln. No. 2923/2019 is disposed of.

The Trial Court Record be returned expeditiously to the Trial Court.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

JANUARY 07, 2020
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