

\$~7

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

+ **BAIL APPLN. 191/2020**

URUAKPA AHMED @ BABA DON

..... Petitioner

Through Mr.K.Singhal and Ms.Heena Tangri,
Advvs.

versus

STATE

..... Respondent

Through Mr. Hirein Sharma, APP for State
with SI Anukul, Special Cell

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **16.03.2020**

The present petition has been filed by applicant/petitioner under Section 439 of Cr.P.C. for grant of bail in case FIR No. 45/2015 for offence punishable under Section 21 of NDPS Act registered at Police Station Special Cell.

Case of petitioner/accused is that Sections 41 and 42 of NDPS Act, which are mandatory, however, in the present case, have not been complied with by prosecution, which is fatal to prosecution case and it would ultimately lead to acquittal of petitioner on this ground. However, this issue kept open and co-accused namely Deepak Pandey, was granted bail vide order dated 01.11.2019 by recording that Section 100 (4) Cr.P.C., as mandated under Section 50 of NDPS Act, has not been complied with which is evident from charge-sheet wherein it is not mentioned that the aforesaid section has been complied with. Based upon that and without giving any

opinion on Sections 41 and 42 of NDPS Act, the above-name accused was granted bail.

Admittedly, recovery was effected from the house of petitioner as was also in case of co-accused Deepak Pandey, therefore, without commenting upon the merits of prosecution case, however, on parity, this Court is of the view that petitioner deserves bail.

At this stage, learned APP has informed this Court that petitioner is a foreign national and has no valid visa in his favour.

Accordingly, petitioner shall be released on bail on his furnishing personal bond in the sum of ₹25,000/- with two sureties of the like amount to the satisfaction of Trial Court subject to pre-condition that petitioner shall have valid visa in his favour. Petitioner is at liberty to apply for visa.

It is made clear that petitioner shall be released only after issuance of valid visa in his favour.

The present petition is allowed and disposed of.

Copy of this order be transmitted to the Jail Superintendent and the Trial Court concerned for compliance.

Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

MARCH 16, 2020/rk