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

+ **BAIL APPLN. 424/2020**

FIROZUDDIN @ BITTU

..... Petitioner

Through Mr.S.S. Das, Adv. with Mr.O.P.
Sharma, Adv.

versus

STATE

..... Respondent

Through Mr. Amit Chadha, APP for State.
SI Sanjeev Kumar PS Special Cell/SR

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **13.02.2020**

Crl. M.A. 3259/2020

Allowed, subject to all just exceptions.

Application is disposed of.

Bail Appln.424/2020

The present petition is filed under section 439 Cr.P.C. r/w 37 of NDPS Act for grant of bail in pursuance to FIR No.62/2015 registered at Police Station Special Cell (SB) for the offence punishable under section 21 of NDPS Act.

The case of the petitioner is that according to FSL Report, the quantity of Diacetylmorphine present in the substance was 4.7% and hence, the total quantity of the said substance was 94 grams only and hence, it is less than commercial quantity. Thus, the rigor of section 37 NDPS Act is

not attracted in the present case.

The aforesaid facts have not been disputed by learned APP for the State.

It is also not in dispute that the petitioner is in judicial custody since 04.11.2015.

Counsel for the petitioner has drawn the attention of this Court to the judgement of Rajeev vs. The State of Kerala, decided by Hon'ble Supreme Court on 11.07.2019 and Sandeep Kumar vs. CBN (CRL. Appeal No. 462/2016 decided on 08.07.2019 by this Court).

Therefore, keeping in view of the intermediate quantity of the substance and without commenting upon the merits of the case, I am of the view that the petitioner deserves bail. Therefore, the petitioner shall be released on bail on his furnishing personal bond in the sum of ₹25,000/- with one surety of the like amount to the satisfaction of the Trial Court.

Before parting with the order, it is relevant to mention that nothing contained in this order shall be construed as an expression on the merits of the case. The Trial Court shall not get influenced by the observations made by this Court, while passing the final orders in the trial.

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

FEBRUARY 13, 2020/ab