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

+ **BAIL APPLN. 874/2020 with BAIL APPLN. 376/2020**

ANAND RAJ

..... Petitioner

Through Maninder Singh, Advocate with
Mr Ajay Kumar Pipaniya, Advocate.

versus

THE STATE OF (NCT OF DELHI)

..... Respondent

Through Mr Kewal Ahuja, APP for state.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.05.2020

CRL. M.A. 6225/2020

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

BAIL APPLN. 874/2020

3. This is an application filed by the petitioner seeking regular bail in FIR No. 0093/2019 under Section 21/61/85 NDPS Act, registered with P.S. Mahendra Park.
4. Mr Maninder Singh, the learned counsel appearing for the petitioner, states at the outset, states that in view of the emergent medical condition of the petitioner's wife the present petition may be treated as an application for interim bail while reserving liberty for the petitioner to file a separate petition for a regular bail.
5. A status report has been filed. The status report indicates that the FIR in question was lodged in view of an alleged recovery of 12.200 kgs of

Ganja that was found in a bag carried by the accused on a search conducted upon his person at 1.00 p.m. on 06.03.2019. The status report also indicates that on the very same day, the wife of the petitioner had made a complaint to P.S. Mahindra Park against the raiding team and had sought inquiry by an independent agency.

6. It is asserted in the petition that SI Vikas Kumar had visited the petitioner at his residence and had apprehended him. He had then taken the petitioner to the police station where further proceedings were continued. It is further asserted that at that moment the wife of the petitioner had made several calls on number 100 against the police party. The petitioner had also filed a CCTV Footage along with his petition, which shows that SI Vikas Kumar and the petitioner walking together with another official. The petitioner asserts that the CCTV Footage at the relevant time indicates that neither the petitioner nor SI Vikas Kumar or the other accompanying police officers were carrying any bag in their hands.

7. Mr Singh, learned counsel for the petitioner submits that it is thus clear that no recovery was effected when the petitioner was apprehended.

8. Mr Kewal Ahuja, learned APP stoutly opposes the said contention. He states that there were two raids on that very day. The first one was in the morning when nothing was recovered from the house of the petitioner and the second was at about 1.00 p.m. on the basis of the information by the secret informer and the accused was apprehended.

9. Mr Ahuja, states that the police party had gone to the residence of the petitioner since a PCR call was made which was recorded as DD No. 21-D. He further states that since currently the judicial file is not available a detailed status report could not be filed.

10. The status report does not make any unequivocal statement about the CCTV Footage despite this Court's directing that a status report covering the said issue be filed. The status report is also silent as to the initial calls claimed to have been made by the wife of the petitioner.

11. Concededly, the quantity allegedly recovered from the petitioner is not a commercial quantity and, therefore, provisions of Section 37 of the NDPS Act do not apply.

12. Be that as it may, The petitioner has restricted the present application only to seek interim bail on the ground that his wife is ailing and is a resident in an area which is considered as one of the hot spots of the prevalent pandemic.

13. Considering the above, this Court considers it apposite to allow this application and grant the petitioner interim bail for a period of forty-five days from the date of his release on the petitioner furnishing a personal bond in the sum of ₹5000/- to the satisfaction of the Jail Superintendent. The petitioner shall not leave the National Capital Territory of Delhi. He shall ensure that he is present at all the proceedings relating the present case without seeking any exemption. The petitioner shall surrender after completion of the period of interim bail.

14. It is also pointed out that another bail application bearing BAIL APPL. 376/2020 was also filed by the petitioner. Mr Singh says that there is some confusion whether two bail petitions were filed erroneously or the same was numbered twice. He states that since the present petition has been considered, Bail Appl 376/2020 may also be considered as disposed of by this order. In view of the statement made by Mr Maninder Singh, the said application (BAIL APPL. 376/2020) is also disposed of. It is clarified that

the same would not preclude the petitioner from filing a fresh petition seeking bail. Needless to state that as and when filed, the same could be considered on its own merit.

15. The registry shall also place a copy of this order in Bail Appl. 376/2020.

MAY 18, 2020
pkv

VIBHU BAKHRU, J