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

+ **BAIL APPL 1965/2020**

RANJEET SAHU

..... Petitioner

Through: Mr. Inderjeet Sidhu, Advocate

versus

STATE

..... Respondent

Through: Ms. Radhika Kolluru, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

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03.09.2020

1. The present application has been filed seeking regular bail in FIR No. 34/2012, registered under Section 20 of the NDPS Act at Police Station Crime Branch, Delhi.
2. Learned counsel for the petitioner submits that the petitioner has been in custody since 11.02.2012. She has rested her case on the ground that there was illegality in drawing samples from the seized cartons. It is submitted that the first carton had 15 packets and instead of drawing samples first, the contents of all the 15 packets were put together in one plastic bag and thereafter samples were drawn. Similar procedure was adopted for drawing samples from the other three cartons. It was submitted the procedure adopted is in complete violation of Standing Order No.1/88. Reliance is placed on the decision of this Court in AMANI FIDEL CHRIS v. NARCOTICS CONTROL BUREAU in **CRL. APPEAL 1027/2015**. She has also referred to three seizure memos dated 13.2.2012 and 14.2.2012 with respect to other recoveries.

3. The manner of drawing a sample of narcotics as laid down in Standing Order No.1/88 is as follows:

“1.5 Place and time of drawal of sample. - Samples from the Narcotic Drugs and Psychotropic Substances seized, must be drawn on the spot of recovery, in duplicate, in the presence of search (Panch) witnesses and the person from whose possession the drug is recovered, and mention to this effect should invariably be made in the panchnama drawn on the spot.

1.6 Quantity of different drugs required in the sample - The quantity to be drawn in each sample for chemical test should be 5 grams in respect of all narcotic drugs and psychotropic substances except in the cases of Opium, Ganja and Charas/Hashish where a quantity of 24 grams in each case is required for chemical test. The same quantities should be taken for the duplicate sample also. The seized drugs in the packages/containers should be well mixed to make it homogeneous and representative before the sample in duplicate is drawn.

1.7 Number of samples to be drawn in each seizure case-

(a) In the case of seizure of single package/container one sample in duplicate is to be drawn. Normally it is advisable to draw one sample in duplicate from each package/container in case of seizure of more than one package/container.

(b) However, when the package/container seized together are of identical size and weight, bearing identical markings and the contents of each package give identical results on colour test by U.N. kit, conclusively indicating that the packages are identical in all respect/the packages/container may be carefully bunched in lots of 10 packages/containers may be bunched in lots of 40 such packages such packages/containers. For each such lot of packages/containers, one sample in duplicate may be drawn.

(c) Where after making such lots, in the case of Hashish and Ganja, less than 20 packages/containers remains, and in case

of other drugs less than 5 packages/containers remain, no bunching would be necessary and no samples need be drawn.

(d) If it is 5 or more in case of other drugs and substances and 20 or more in case of Ganja and Hashish, one more sample in duplicate may be drawn for such remainder package/containers.

(e) While drawing one sample in duplicate from a particular lot, it must be ensured that representative drug in equal quantity is taken from each package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot."

(emphasis added)

4. Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and as per the Nominal Roll, the petitioner has undergone about 8 years 6 months and 11 days as on 22.08.2020 and his jail conduct has been reported to be satisfactory. She further submits that 17 witnesses out of the total 21 witnesses have already been examined. She further submits that the brother of the petitioner namely *Ajit Kumar Chaudhari* is ready and willing to stand surety for him.

5. Learned APP for the State, on the other hand, has opposed the bail application. She submits that the present case involves commercial quantity of about 200.8 kg *Ganja* seized on three different occasions.

6. Looking into the facts and circumstances of the case and period of custody undergone by the petitioner and the fact that the conclusion of the trial is likely to take some time, the petitioner is admitted to regular bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/Duty MM/concerned Court and subject to the following conditions:-

- (i) The petitioner shall not try to get in touch with the complainant or any other prosecution witness directly or indirectly and shall not make any effort to tamper with the evidence.
- (ii) The petitioner shall remain available on the mobile number 9308110502 which belongs to his brother *Ajit Kumar Chaudhari*, which he undertakes to keep operational at all times
- (iii) In the event of change of residential address/ contact details, the petitioner shall promptly inform the same to the concerned I.O./SHO Gurmeet (Mob. No.9311961706) as well as the concerned Court.
- (iv) The petitioner shall regularly appear before the Trial Court.

7. With the above directions, the present application stands disposed of.

8. Nothing stated herein above shall be construed as an expression on the merits of the case. The observations are only *prima facie* and have been made to dispose of the present bail application.

9. A copy of this order be communicated to the concerned Jail Superintendent electronically.

MANOJ KUMAR OHRI, J

SEPTEMBER 04, 2020

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