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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2297/2019

TALJINDER SINGH

..... Petitioner

Through: Mr. Yogesh Saxena and Mr. Hasim
Alam, Advocates.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr. Yatharth Singh and Mr. P.C.
Aggarwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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16.01.2020

The petitioner has filed the present petition under Section 439 Cr.P.C. for grant of bail in case No. SC/431/18, under Sections 21, 22 and 29 of NDPC Act.

It is alleged that on 02.06.2018 a secret information was received by the respondent and on the basis of the said information one Swift Dezire car bearing No. PB 52B 0887 was intercepted. The petitioner was sitting in the car along with co-accused Inderjeet Singh. Their search was conducted and one packet was recovered from the right side pocket of pant of the co-accused Inderjeet Singh. It is alleged that the said packet contained 100 grams of heroine. The petitioner was also searched but no contraband was recovered from him. A preliminary inquiry was conducted and the co-accused

disclosed that the illicit substance was purchased from John Ifeany.

Status report indicates that Narcotic Control Bureau developed certain intelligence and the house of John Ifeany was searched. Said search allegedly resulted into recovery of heroine of 415 grams, cocaine of 180 grams and methamphetamine of 215 grams. It is further states that one Sisse Mamadou was also present in the house and during investigation he disclosed that he is also indulged in drug business with John Ifeany.

It is submitted by learned counsel for the petitioner that co-accused Inderjeet Singh has been granted bail. It is further submitted that no recovery has been affected from the petitioner and the search of the petitioner and the co-accused has not been conducted in the presence of a gazetted officer or a magistrate, despite the fact that the respondent had prior information about drugs being carried by the petitioner and the co-accused. The search is therefore not in conformity with Section 50 of the NDPS Act. Reliance is placed on the judgment of the Supreme Court reported as *Arif Khan @Aga Khan Vs. State of Uttrakhand, AIR 2018 SC 2123*. It is further contended that there is no material to indicate that the petitioner is involved in any trading of drugs and nothing has been recovered from him. Moreover, the quantity recovered from the co-accused is below the commercial quantity.

Keeping in view the fact that nothing has been recovered from the petitioner and co-accused, from whom recovery was effected, has already been granted bail, so the petitioner is entitled to parity. Accused/petitioner is stated to be in custody since 14.06.2018.

Therefore, petitioner is admitted to bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount, subject to the satisfaction of the learned trial court. He shall report to the SHO of the local police station on every second and fourth Monday of the calendar month at 10:30 a.m. and shall also provide his mobile number and shall ensure that he is reachable on the said number at all times. The petitioner shall join the investigation as and when required by the IO.

The petition is disposed of in the aforesaid terms.

A copy of this order be transmitted to the trial court.

Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

Dasti.

RAJNISH BHATNAGAR, J

JANUARY 16, 2020

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