

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

Reserved on : 05.02.2021

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Pronounced on : 09.02.2021

+ **BAIL APPLN. 3566/2020**

MADAN GIRI

....Petitioner

Through: Mr. Sunil Mehta, Advocate.

versus

STATE (NCT OF DELHI)

....Respondent

Through: Mr. Manjeet Arya, APP for the
State with SI Amit Kumar, P.S.
New Usmanpur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. By way of this order, I shall dispose of the present bail application filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. on behalf of the petitioner for grant of regular bail in case FIR No. 623/2020 registered under Section 21 of the NDPS Act at P.S. New Usmanpur, Delhi.

2. Briefly stated, the allegations against the petitioner are that on the basis of a secret information received on 16.10.2020 at about 6:30 p.m., he was apprehended by the raiding party from Dharam Pura Red Light

near Masjid, Service Road, Shastri Park, Delhi at about 8:10 p.m. Notice U/s 50 of the NDPS Act was given to him and ACP Seelampur was called at the spot. In the presence of ACP Seelampur search of the petitioner was conducted and 08 Gms. SMACK was recovered from his possession.

3. I have heard the Ld. counsel for the petitioner, Ld. APP for the State and perused the status report filed by the state.

4. It is submitted by the Ld. counsel for the petitioner that the search and seizure effected from the accused was in contravention with the mandatory provisions of Section 50 of the NDPS Act. He further submitted that there is non-compliance of Section 41/42/50/57 NDPS Act. It is further submitted that the case has been registered against the petitioner due to enmity. It is further submitted that the alleged recovered quantity is not a commercial quantity and rigors of section 37 of the NDPS Act does not apply. It is further submitted by the Ld. counsel for the petitioner that on plain reading of the FIR, it is crystal clear that there is complete violation of Section 50 of the NDPS Act and there is nothing on record to suggest that the petitioner is a mass supplier of smack in North East Delhi.

5. On the other hand, it is submitted by the Ld. APP for the state that there is no violation of the mandatory provisions of the NDPS Act. It is further submitted by the Ld. APP that it would not be possible to

secure the presence of the petitioner if he jumps the bail. Ld. APP has further submitted that the petitioner is a habitual offender and is previously involved in case FIR No. 287/2018 U/s 20 of the NDPS Act, P.S. New Usman Pur.

6. As far as the contention that there are violation of mandatory provisions of NDPS Act, at the stage of bail, it would not be proper to minutely analyze the statement of the prosecution witnesses and the documents and in depth analysis of the case of the prosecution is not to be undertaken.

7. According to the prosecution, the petitioner is previously involved in case FIR No. 287/2018 U/s 20 NDPS Act, PS New Usmanpur. The petitioner was granted bail in this case but despite that he is not mending his ways and while on bail, he indulged in the present case. So he appears to be a habitual offender dealing in drugs, so in these circumstances no ground for bail is made out, the bail application is, therefore, dismissed.

RAJNISH BHATNAGAR, J

FEBRUARY 9, 2021

Sumant