

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

Reserved on : 16.03.2023

Pronounced on : 17.04.2023

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+ **BAIL APPLN. 2667/2022**

ANSAR AHMED

..... Petitioner

Through: Mr. S.S. Das and Ms. Ria Das,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Priyanka Dalal, APP for the State
with Insp. Omvir Dabas, SI Virender
and SI Dilbag, P.S. Narcotics Cell.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No. 169/2021 under Sections 21/25/29 of NDPS Act, 1985, registered at Police Station Narela Industrial Area.
2. In brief the facts of the case are that on 06.04.2021, a secret information was received by Narcotics Cell Outer North District regarding a person, namely, Ansar (petitioner herein), along with his associates, namely, Momin Sheikh and Sunil, were indulged in sale and supply of 'Heroin' and it was informed that Momin and Sunil would reach at the spot i.e., in front of vacant house No. B-637 JJ Colony, Bawana, between 04:00 pm to 06:00 pm and on the basis of the said information, a raid was conducted at the

spot. During probe, Momin Sheikh and Sunil were apprehended and at the time of their personal search, 300 gm and 8 gm of '*Heroin*' were recovered respectively from their possessions. As a result of which, the present FIR was registered against the accused persons. During investigation, IO/SI Dilbagh Singh arrested both the accused persons and recorded their disclosure statements, wherein both the accused persons disclosed that the recovered contraband was provided to them by Ansar Ahmed (petitioner herein), who remained absconded since the registration of FIR and accordingly, NBW was issued against him. During further investigation, the petitioner was arrested on 14.07.2021 and at his instance recovery of 200 gm of '*Heroin*' was made from his godown/House No. E- 2244 JJ Colony, Bawana, Delhi.

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

4. It is submitted by learned counsel for petitioner that petitioner is in JC since 15.07.2021. It is further submitted that quantity recovered from the petitioner is intermediate quantity and not commercial quantity so, the rigors of Section 37 NDPS Act is not applicable. It is further submitted that the petitioner was arrested only on the basis of disclosure statement of the co-accused persons and has been falsely implicated. It is further submitted that petitioner has deep roots in the society and has family to support. It is further submitted that co-accused, namely, Sunil, has already been granted bail by this Hon'ble Court vide order dated 28.07.2022 from whom 8 gm '*Heroin*' was recovered and the petitioner seeks parity. Concluding his arguments,

learned counsel for the petitioner submitted that chargesheet has already been filed and there is no likelihood of trial being concluded in the near future, therefore, no purpose would be served by keeping the petitioner in custody.

5. On the other hand, learned APP for the State has vehemently opposed the bail application and has argued on the lines of the status report. It is submitted by the learned APP that both the co-accused persons, namely, Momin and Sunil, in their disclosure statements have stated that the confiscated contraband was given to them by the petitioner who remained absconded and an NBW was also issued against the petitioner and it is further submitted that the petitioner was finally arrested on 14.07.2021 and he disclosed that he had procured one kg of 'Heroin' from Mohd. Hussain @ Lalu Langda, resident of Kanpur who has been declared proclaimed offender, just prior to apprehension of Momin Sheikh and that he had kept the said substance in one of his locked houses and sells the same in small quantities from time to time to the co-accused persons, further on the basis of his statement, a raid was conducted and at his instance, a recovery of 200 gm. 'Heroin' has been effected from his godown/house No. E-2244 JJ Colony Bawana. It is further submitted that petitioner remained involved in three more cases of similar nature and he is also an active member of a drug syndicate being operated under his control, therefore, there are possibilities of petitioner being involved in drug trafficking if the petitioner is released on bail.

6. In the instant case, the investigation has been completed and the chargesheet has been filed. The present petitioner has been arrested only on the basis of disclosure statement of co-accused persons, Momin Sheikh and Sunil and the bail application of co-accused, namely, Sunil has already been allowed vide order dated 28.07.2022 by this Court on the ground that there was a recovery of intermediate quantity. The trial would take a long time to conclude and thus, no fruitful purpose would be served by keeping him detained in prison.

7. Therefore, in view of the submissions mentioned hereinabove, considering the period of incarceration and the fact that recovery was of intermediate quantity, the petitioner is entitled to parity with co-accused, namely, Sunil, accordingly, the bail application stands allowed and the 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 to the satisfaction of concerned trial court subject to the following conditions:

- i. The petitioner shall provide his mobile phone number to the Investigating Officer (IO) concerned – at the time of release, which shall be kept in working condition at all times. The petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the period of bail;
- ii. The petitioner shall provide his residential address to the Investigating Officer (IO) concerned – at the time of release. The petitioner shall not change the same without prior intimation to the IO concerned, during the period of bail;

- iii. The petitioner shall mark his attendance to the SHO/IO concerned and keep him informed of his whereabouts every Friday between 11:00 A.M. to 11:30 A.M. and between 5:00 P.M. to 6:00 P.M. through video call and if video call is not possible, he may send SMS apropos his whereabouts, as well as “drop-a-pin” on location app to indicate his location. The IO’s telephone number shall be provided to the learned counsel for the petitioner;
 - iv. The petitioner shall not leave the NCT of Delhi without the prior permission of the concerned trial court;
 - v. The petitioner shall not indulge in any criminal activity during the bail period.
8. The bail application along with pending applications, if any, stands disposed of.
9. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

APRIL 17, 2023/_p