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

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Reserved on: 15.03.2023
Pronounced on: 05.04.2023

+ **BAIL APPLN. 912/2017**

SULTAN ANSARI

.....Petitioner

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

versus

DRI

.....Respondent

Through: Mr. Satish Aggarwala, SPP for
DRI alongwith Mr. Gagan
Vaswani, Advocate

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

CRL.M.(BAIL) 153/2023 (interim bail)

1. The instant application under Section 439 of Code of Criminal Procedure, 1973 ('Cr.P.C'), has been filed by the applicant/accused seeking interim bail for a period of three months in SC No. 06A/2015 registered at Police Station Directorate of Revenue Intelligence (DRI), New Delhi, for offences punishable under sections 22/25A/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').
2. Brief facts of the present case are that on 19.08.2015, specific information was received by Directorate of Revenue Intelligence (DRI), that members of a syndicate operating from different places were engaged in illegal trade of psychotropic substances and controlled

substances under the NDPS Act. On the basis of the said information, simultaneous search operations were conducted at various places which led to recovery of contraband substances on 19.08.2015 and 20.08.2015. As per case of the DRI, 250 kg of Pseudoephedrine Hydrochloride controlled substance was seized on 19.08.2015 from M/s Lakshya Traders, Shakarpur, Delhi, which was clandestinely and fraudulently removed from G.T. Biopharma Private Limited, Kala Amb on 17.08.2015. On 20.08.2015, another raid was conducted in which 100 kg of Pseudoephedrine Hydrochloride was seized from M/s Akash Logistics Pvt. Ltd. Kamla Market, Asaf Ali Road, which was received from M/s Daffohills Laboratories Pvt. Ltd, Dehradun and consigned to Weishorn Bio Tech, Delhi. It is alleged that one Manoj Kumar Nayak (co-accused) is the proprietor of M/s Lakshya Traders, and the other co-accused, D.P. Saxena, is the proprietor of M/s Weishorn Bio Tech., Delhi. On 19.08.2015, the officials conducted a raid on M/s G.T. Biopharma Pvt. Ltd, Kala Amb, in which controlled substance was recovered and 75kg of Ketamine Hydrochloride Psychotropic substance under the NDPS Act, and 20kg of Alprazolam Hydrochloride were also recovered. It is also stated that 6000 tablets containing Pseudoephedrine were found at G.T. Biopharma Private Limited. Further, the raid was conducted on M/s Daffohills which led to recovery of 25kg, Pseudoephedrine Hydrochloride. Apart from this, 1000 kg of Pseudoephedrine Hydrochloride, 175 kg of Ephedrine was recovered from M/s Dhari Chemical, Vadodra, which led to be dispatched to M/s G.T. Biopharma Private Ltd, Kala Amb and M/s Daffohills Laboratories Private Ltd, Dehradun. The present applicant/accused has been arrested

in this case on 20.08.2015 on the premise that he is also part of this conspiracy and he was working as a manufacture cum-chemist with M/s G.T. Biopharma Private Limited, Kala Amb, Himachal Pradesh. It is further alleged that he had helped in the falsification of statutory record of the company, which had clandestinely diverted the controlled substance and psychotropic substance.

3. Present application for interim bail has been moved on behalf of applicant on medical grounds. Learned counsel for applicant/accused draws attention of this Court to the medical record and states that one of the kidneys of the applicant is non-functional as of now. It is stated that this sufferance has been caused due to his confinement in the jail. It is also argued that the applicant has a right to choose hospital for his treatment. It is further stated by learned counsel that while the applicant remained on interim bail on several occasions, he did not indulge in any offence including offence under NDPS Act.

4. Learned SPP for DRI, on the other hand, states that the applicant can be treated at AIIMS Hospital, Delhi where he can get the best possible treatment in India. Attention of this Court is drawn to the report of doctor concerned which has been received through the Superintendent, Jail, and it is stated that the medical condition of the applicant is stable. Reliance has been placed upon the decision of Division Bench of this Court in case of *Athar Pervez v. State* 2016 SCC OnLine Del 6662 and it is stated that interim bail can be granted to the applicant subject to the guidelines which are mentioned in the said judgment. Learned SPP also states that the bar of Section 37 NDPS Act has to be kept in mind. It is further argued that no ground for grant of

interim bail is made out in this case as the State is ready to get the applicant treated from the best hospital i.e. AIIMS, Delhi. It is admitted by learned SPP that the applicant has been in judicial custody for about seven years and only two witnesses have been examined.

5. This Court has heard arguments addressed on behalf of both the parties and the material on record has been perused.

6. After hearing arguments and going through the case file, this Court is of the opinion that as per report received from the doctor concerned and the Jail Superintendent, it is not disputed that as of now, one of the kidneys of the applicant is non-functional. He is also a patient of hypertension and in case he is not treated properly, his second kidney may also be damaged or badly affected. This Court has also kept in mind, the argument of learned counsel for applicant that the applicant did not have any medical history of damage of his kidneys prior to being confined to the jail.

7. It is also not disputed that applicant is in custody for about seven years, and the trial has still not been concluded. The applicant/accused at this stage, has only prayed for grant of interim bail for the purpose of his medical treatment since it is stated that his family is staying in Patna, he wants to be released on interim bail so that he can get his treatment done from hospital of his choice in Patna, so that his family can effectively look after him. This Court finds merit in the said argument and also takes note of the fact that applicant has been in custody for long, but the trial is still not concluded and at present, there is no likelihood of it being concluded in near future. In any case, the medical

condition and treatment of a person, even if an accused, cannot wait till the trial is concluded.

8. The applicant has been released earlier also on interim bail and there is nothing on record to suggest that he has misused the liberty of interim bail granted to him. The accused has a right to be treated, in this case, where his family is located so that there is no additional financial burden in case his family is required to travel to Delhi for his treatment.

9. Since the case is not being decided on merits, but only on humanitarian grounds, this Court finds it a fit case for grant of interim bail for a period of two months to the applicant on medical ground for getting treatment for the kidney ailment in Patna, on his furnishing personal bond in the sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge. The applicant shall not do anything which may prejudice either the trial or the prosecution witnesses. The applicant shall duly surrender before the concerned Superintendent Jail on the expiry of interim bail.

10. Accordingly, the present application seeking interim bail stands disposed of.

BAIL APPLN. 912/2017

11. Re-notify on 30.07.2023.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

APRIL 05, 2023/zp