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

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Reserved on: 22.05.2024
Pronounced on: 30.05.2024

+ **BAIL APPLN. 340/2024**

JAGDEEP SINGH

..... Petitioner

Through: Mr. Amit Chadha, Mr. Pankaj Gupta, Ms. Smriti Shrivastava and Ms. Aeshana Singh, Mr. Siddharth Sunil, Advocates

versus

STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Manoj Pant, APP for the State with Ms. Divya and Ms. Ritika Racchaya, Advocates along with SI Navdeep, P.S. Special Cell.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of present application filed under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'), the applicant Jagdeep Singh seeks regular bail in case arising out of FIR No. 43/2023, registered at Police Station Special Cell, Delhi under Sections 18/25/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act')



2. Brief facts of the case are that a secret information was received by the Special Cell on 13.02.2023 that in next 4-5 days, two people from Imphal, Manipur would be carrying drugs from Manipur for supplying them in areas of Delhi NCR and Punjab. On 17.02.2023, the Special Cell had received information that at around 3-4 PM, two residents of Imphal i.e. Ranbir Singhand Loyangamba, who are involved in business of heroin, will come through loop road from MB road towards Sarita Vihar, Delhi in white coloured Maruti Brezza Car, bearing no. AS 01 DR 9488. Thereafter, a raiding team was formed. At around 03:25 PM, the said car had reached the spot and had stopped on the side of road. Ranbir Singh and Loyangamba were then apprehended at the spot, and after completion of proceedings under Section 50 of NDPS Act, 10 kg opium was recovered from the bag carried by accused Ranbir and 10 kg opium from the bag carried by accused Loyangamba. In addition, 30 kgs of opium was recovered from the back seat and secret cavities of the car. Thus, a total of 50 kgs opium was seized and accordingly, the present FIR was registered. The abovesaid accused persons were arrested, and were sent to police remand on 18.02.2023. During investigation, accused persons Ranbir and Loyangamba had disclosed that they had to supply 30 kgs of opium to the present applicant Jagdeep Singh and further that they had also supplied 20 kgs of opium to him in past, on 29.12.2022. The applicant herein was arrested on 10.05.2023 in the present case.

3. Learned counsel appearing on behalf of the present accused/applicant argues that no contraband has ever been recovered



from the custody of the present accused or from his house or workplace. It is further argued that the applicant was merely arrested on the basis of disclosure statement of co-accused Ranbir and Loyangamba, and the prosecution has failed to establish any link of the applicant with the co-accused persons from whom the contraband was recovered. It is also stated that even if there is some financial transactions between the applicant and other accused persons, the same cannot be a ground to implicate the applicant in the present case. While arguing on the invocation of Section 29 of NDPS Act, learned counsel relies on the decision of Co-ordinate Bench of this Court in case of *Mohd. Aslam Chikko v. NCB* 2023 SCC OnLine Del 5733 and argues that in order to establish charge of abetment or conspiracy under Section 29, the prosecution has to adduce some independent, corroborative and affirmative legal evidence, which has not been collected by the investigating agency in the present case. It is also submitted that since there is no material to connect the applicant with the recoveries made from co-accused persons, bar under Section 37 of NDPS Act would not be attracted in this case. Therefore, it is prayed that applicant be granted regular bail.

4. On the other hand, learned APP for the State argues that there is enough material collected by the investigating agency which connects the present applicant with co-accused persons from whom the contraband in question was recovered. It is submitted that out of the contraband recovered in this case, 30 kgs of opium was to be supplied to the applicant herein. It is pointed out that the Call Detail Records reveals the active involvement of the applicant in receiving



opium from co-accused persons even in past, and there are financial transactions as well as intercepted calls which clearly show that applicant herein is involved in commission of offence and thus, bar under Section 37 of NDPS Act will also be applicable in this case. It is stated that charge is yet to be framed in this case and material witnesses are yet to be examined and therefore, it is prayed that present bail application be dismissed.

5. This Court has heard arguments addressed on behalf of the applicant as well as State, and has perused the material placed on record by both sides.

6. In the present case, upon a raid been conducted by the Special Cell, co-accused persons namely Ranbir Singh and Loyangamba Leishangthem were arrested on 18.02.2023 and 50 kgs of opium was recovered from their possession and their car. On 21.02.2023, application under Section 52A of NDPS Act was filed before the learned Magistrate for withdrawal of samples of the contraband, which after withdrawal were sent to FSL, Rohini. The FSL report dated 09.04.2024 has been placed before this Court by the learned APP, which confirms that the contraband recovered in this case was 'opium'.

7. This Court further notes that co-accused Ranbir and Loyangamba had disclosed that they had obtained 50 kg opium, which was recovered pursuant to raid, from co-accused Kawal Deep Singh, 30 kg of which had to be supplied to the present applicant Jagdeep Singh, who is a resident of Amritsar, Punjab, and further that they had previously also supplied 21 kg of opium to the present



applicant on 29.12.2022.

8. A perusal of chargesheet reveals that the analysis of Call Detail Records of the accused persons reveal that co-accused Kawal Deep Singh and Ranbir Singh were in contact with the present applicant in December 2022, i.e. when 21 kg of opium had been allegedly delivered to the present applicant in Punjab. During this period, there are about 127 calls between applicant and co-accused Kawal Deep Singh and about 12 calls between applicant and co-accused Ranbir Singh. There are intercepted calls also between the present applicant and co-accused Kawaldeep in which they are talking about amount and tools which can be used for opening the secret cavity of the car, in which the opium had been kept hidden. Mobile phone location chart analysis also reveals that on 29.12.2022, co-accused Ranbir and Loyangamba, who are residents of Imphal, were present in Amritsar, Punjab, i.e. the place of residence of applicant Jagdeep Singh. There are financial transactions also between present applicant and co-accused Kawal Deep Singh and his wife Ms. Nirmal Kaur on different dates.

9. As far as reliance placed on decision reported as *Mohd. Aslam Chikko* (*supra*) on behalf of applicant is concerned, the Co-ordinate Bench in the said case has held that to establish a charge under Section 29 of NDPS Act, the prosecution cannot rely only on a disclosure statement and it has to collect and place on record other independent and corroborative material, and since there was no other material such as call detail records, mobile chats, etc., bail was granted to the accused therein. This decision, however, can be of no



help to the present applicant since the prosecution has placed on record corroborative material in the form of call detail records, mobile location chart, transcript of intercepted calls, and details of financial transactions between the accused persons, which *prima facie* show that the applicant herein was involved in commission of the offence in question.

10. This Court also takes note of the fact that the present applicant Jagdeep had disclosed during the course of investigation that he had further sold 5 kg of opium to one Kanwarbir Singh, qua which also, the prosecution had collected other material such as call detail records, etc. The anticipatory bail application of Kanwarbir Singh was dismissed by this Court *vide* order dated 08.08.2023, which was challenged before the Hon'ble Apex Court by way of *SLP (Crl.) No. 014450/2023*. The plea of grant of anticipatory bail was declined by the Hon'ble Apex Court, and co-accused Kanwarbir Singh was granted two weeks time to surrender. However, as per the status report filed on record, the said co-accused had not surrender and was arrested at IGI Airport, Delhi on 08.02.2024 when he was trying to flee the country.

11. Having said that, this Court is of the opinion that there is sufficient *prima facie* material on record to connect the present applicant with the other co-accused persons and the recovery of contraband in this case, a large portion of which was to be supplied to the applicant herein. The recovery in this case is of commercial quantity of opium, and bar under Section 37 of NDPS Act is attracted. Charges are yet to be framed in this case and material witnesses are



yet to be examined.

12. Considering the overall facts and circumstances of the case and for the reasons recorded hereinabove, this Court finds no ground to grant regular bail to the present applicant.

13. Accordingly, the bail application is dismissed.

14. Nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 30, 2024/at