



\$~10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 929/2023**

STATE

.....Petitioner

Through: Mr. Aashneet Singh, APP for State
with SI Sudhir Kumar, P.S.
ANTF/Crime Branch.

Versus

VIKRAM @ KALU

.....Respondent

Through: Mr. Jaideep Malik, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

12.08.2024

%

1. By way of the present petition, the petitioner/State seeks cancellation of bail granted to the respondent by the Ld. ADJ vide order dated 30.06.2022 in FIR No. 16/2022 registered under Sections 21/25/29 of the NDPS Act at P.S. Crime Branch.
2. Mr. Aashneet, ld. APP for the State contends that the impugned order was passed without due application of law and without appreciating that the commercial quantity of *heroin* that was seized from the dicky of the scooty being driven by the respondent.
3. Mr. Malik, ld. Counsel for the respondent, on the other hand, has defended the impugned order by contending that the respondent was in custody for four months and noting the violation of Section 50 of the NDPS Act, the bail application was allowed.



4. I have heard the learned counsels for the parties and also gone through the impugned order.

5. As per the prosecution case, the respondent was apprehended on 21.02.2022 at about 1.15 pm from flyover Shahdara, M.S. Park, near GTB Enclave, Near Railway Line, Delhi. From the dickey of the scooty that was being driven by the respondent, two packets containing 300 and 200 grams of heroin/smack were seized. It is contended on behalf of the respondent that the signatures of the concerned ACP was not obtained on the recovery notice, inasmuch as, the notice under Section 50 of the NDPS Act was not fully complied with. It is also submitted that the respondent was released on interim bail and he has timely surrendered. The another contention raised before the Id. Sessions Court was that the trial is likely to take time.

6. A perusal of the impugned order would show that the reason assigned while admitting the respondent on bail was the period of custody of four months and that Section 50 notice was not fully complied with. It does not spell out as to in what manner notice under Section 50 was not fully complied with, inasmuch as, the same is inapplicable as the substance was seized from the dickey of the scooty. The impugned order is completely bereft of any reasoning as to how the Section 50 notice parameters are not made out. The quantity seized is commercial in nature. Accordingly, the petition is allowed and the impugned order is set aside. Bail bonds are cancelled and surety discharged.

7. It is noted that on the last date of hearing it was informed that the respondent is in custody in FIR No. 102/2024 registered under Section 302 IPC. Let a copy of this order be communicated to the Jail Superintendent for information and necessary compliance.



8. Petition is disposed of in the above terms.

AUGUST 12, 2024

ga

MANOJ KUMAR OHRI, J