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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 606/2024

RUDRA SINGH

.....Petitioner

Through: Mr. Vikram Hegde and Mr. Chitwan
Sharma, Advocates.

versus

NARCOTICS CONTROL BUREAU (N.C.B.)

.....Respondent

Through: Mr. Shashwat Bansal, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

29.11.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973, the petitioner seeks regular bail in Case No. VIII/01/DZU/2022 registered under sections 8(c)/20/22(c)/29/35 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS') at P.S.: NCB, DZU, R.K. Puram, Delhi.

2. Notice on this petition was issued on 19.02.2024; consequent whereupon, Status Report dated 12.03.2024 has been filed on behalf of the NCB.
3. Nominal Roll dated 11.03.2024 has also been received from the concerned Jail Superintendent.
4. The court has heard Mr. Vikram Hegde, learned counsel appearing for the petitioner; as well as Mr. Shashwat Bansal, learned counsel appearing for the NCB at length.
5. Mr. Hegde's principal contention is that the *main* piece of evidence being cited against the petitioner is that he was the person on whose



instructions, behest and instance co-accused/Shubham Chahal had consigned a parcel, which was intercepted and seized by the NCB in Delhi, and which was found to contain 43 grams of MDMA and 2.75 grams of Methamphetamine.

6. Mr. Hegde has drawn attention to the record to argue, that as per the NCB they had received information on 10.01.2022 that a parcel bearing AWB No. Z70285037 had been sent by one Shubham Chahal to one Deepjyoti Mitra; that the parcel was lying at DTDC Exp. Ltd. Super Hub, Samalkha, New Delhi and was suspected to contain 'ecstasy' pills. It is the NCB's case, that pursuant to this information, the parcel was intercepted *at the Samalkha Office of the DTDC on 10.01.2022 at about 12:30 p.m.*; and it was found to contain 43 grams of MDMA and 2.75 grams Methamphetamine; and the parcel was accordingly seized.
7. Mr. Hegde submits, that the alleged interception of the parcel at the Samalkha Office of the DTDC has been doubted by this court while granting anticipatory bail to co-accused/Deepjyoti Mitra *vide* order dated 18.10.2024 made in BAIL APPLN. No.725/2024. In this context, counsel further points-out, that as has been observed by this court in the aforesaid order, the Tracking Report of the said parcel – bearing AWB No. Z70285037 – which is one of the documents filed alongwith the complaint by the NCB, would show that on the date and time at which the NCB says they intercepted and seized the consignment *in Delhi*, the consignment was 'out for delivery' *in Kolkata*.



8. Furthermore, Mr. Hegde points-out that the tracking report also shows that the consignment, which had been booked at the DTDC facility in Greater Noida *on 06.01.2022*, had passed through various channels of DTDC, and it would appear that *on 08.01.2022* the consignment *was already at the Delhi Airport* as an ‘out-going load’ to be loaded onto the Kolkata flight *via AVIAPRO Logistics Pvt. Ltd*; and *on 09.01.2022* the consignment had already been received at the Kolkata airport. Counsel accordingly argues, that the NCB’s story that the parcel was intercepted and seized at the DTDC’s Samalkha Office in Delhi *on 10.01.2022* is therefore falsified; and, as a result, all proceedings arising therefrom must fail.
9. Mr. Bansal has sought to explain the discrepancy between what is reflected in the tracking report of the parcel *and* the NCB’s stand that they had intercepted and seized the parcel at the Samalkha Office of the DTDC in New Delhi. Mr. Bansal says, that in order not to alert the accused persons of the interception of the consignment, the NCB had instructed DTDC not to change the tracking record of the consignment, which is the reason why the tracking report reflects that the consignment had moved from the Samalkha Office of the DTDC *to the Delhi Airport then to the Kolkata Airport and thereafter* was *out for delivery* to the petitioner’s address in Kolkata.
10. Mr. Bansal further submits, that the NCB have also collected the relevant CDRs which show that several calls were exchanged between the petitioner and co-accused/Shubham Chahal on the date on which the consignment was booked through DTDC and even on several dates preceding that, which CDRs have been placed on record.



Mr.Bansal also points-out, that certain financial transactions have also been noticed between the petitioner and Shubham Chahal, which according to the NCB were related to transactions and trading in contraband.

11. Upon a conspectus of the facts and circumstances of the case, in the opinion of this court, the NCB's explanation of the *evident discrepancy* between their case that they had intercepted and seized the parcel (which NCB say was consigned at the petitioner's instance and instructions) at the DTDC Samalka Office in New Delhi on 10.01.2022 and what is seen from the tracking report which shows that on the said date the parcel was already out-for-delivery in Kolkata, is something that the NCB would have to prove in the course of trial. At the present stage, based on a plain reading of the tracking report, the NCB's contention that they had intercepted and seized the parcel at the DTDC Samalkha Office in New Delhi on 10.01.2022, is clearly in doubt.
12. In light of the above, the very interception and seizure of the parcel on the date and time as claimed by the NCB is under shadow by reason of the discrepant tracking report. Therefore, the *principal* incriminating circumstance cited by the NCB against the petitioner, namely that it was the petitioner on whose instructions the parcel allegedly containing contraband was consigned by co-accused/Shubham Chahal, remains to be shown convincingly by the NCB by leading cogent evidence. Notably, the tracking report shows that the consignment had *left the DTDC Samalkha Office on 08.01.2022*; and was at the Delhi Airport *on 08.01.2022*; and then at



the Kolkata Airport and 09.01.2022; which casts a doubt on the NCB's claim that they had intercepted the parcel *at the DTDC Samalkha office in Delhi on 10.01.2022*.

13. Nominal Roll dated 11.03.2024 received from the Jail Superintendent shows that the petitioner has already undergone about 02 years and 01 month of judicial custody as an undertrial as of that date; that he has no other criminal involvement; and that his overall jail conduct has been 'satisfactory'.
14. Upon an overall conspectus of the facts and circumstances of the case, this court is persuaded to grant to the petitioner – **Rudra Singh s/o Vinod Kumar** – *regular bail* pending trial, subject to the following conditions :
 - 14.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 02 sureties in the like amount from family members to the satisfaction of the learned Trial Court;
 - 14.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
 - 14.3. In case of any change in his residential address/contact details, the petitioner shall promptly inform the Investigating Officer in writing;
 - 14.4. If the petitioner has a passport, he shall surrender the same to the learned Trial Court and shall not travel out of the country without prior permission of the learned Trial Court; and



- 14.5. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
15. Since the petitioner is facing trial and is therefore appearing before the learned Trial Court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
16. Needless to add, that nothing in this order shall be construed as an expression of opinion on the merits of the matter.
17. The petition stands disposed-of in the above terms.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 29, 2024

V.Rawat