



\$~15

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

+ **BAIL APPLN. 690/2024**

VIPIN KUMAR

..... Petitioner

Through: Mr. Ashwani Jha, Mr. Ashish Pratap Singh, Mr. Gaurav Adhikari, Mr. Hari Krishan, Mr. Amit Kumar, Mr. Sachin Kumar and Mr. Pulkit Tomar, Advocates.

versus

STATE GOVT OF NCT DELHI

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State. SI Devender Antil, Special Staff-North.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

02.05.2024

%

1. This is the second application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 290/2023, under Sections 18/29 of the NDPS Act, registered at P.S. Kashmiri Gate.
2. The first application under Section 439 of the CrPC seeking regular bail was dismissed as withdrawn vide order dated 01.02.2024 with liberty to file fresh application with better particulars and additional documents.
3. The case of the prosecution as per the status report dated 05.04.2024 authored by Dharmender Kumar, Assistant Commissioner of Police, Operations Cell, North District, Delhi is that on 28.05.2023 a secret information was received by HC Davender of Special Staff North District that two men namely Vinod Kumar and Vipin Kumar resident of Badaun and Shahjahanpur (U.P.) respectively are active members of an interstate



drug syndicate and both would come near U turn ISBT Kashmere Gate on the road coming from Hanuman Mandir towards ISBT Kashmere Gate between 7-8 PM to supply opium in large quantity. On the basis of the aforesaid information ACP-Operations Cell, North District ordered Inspector Special Staff to constitute a raiding team and take appropriate legal action. The case of the prosecution is that the raiding team comprising of SI Hariom, ASI Harsikandar, HC Davender and HC Vineet was constituted. At 7:15 PM the present applicant alongwith other co-accused was identified by the secret informer and they were intercepted. The case of the prosecution is that after confronting the present applicant and co-accused personal search was conducted after giving the notice under Section 50 of the NDPS Act. It is the case of the prosecution that after search of the co-accused person,i.e., Vinod Kumar, a quantity of 2.8 Kg of opium was recovered. Thereafter on personal search of the present applicant a quantity of 515 gms of opium was recovered from his possession. Subsequent to the aforesaid search and seizure and completion of investigation, chargesheet was filed before the court of competent jurisdiction.

4. Learned counsel appearing on behalf of the applicant submits that the quantity recovered from the present applicant is intermediate in nature. It is further submitted that notice under Section 50 of the NDPS Act is defective due to the word 'nearest' not being mentioned in the said notice. It is submitted that investigation in the present FIR is complete and chargesheet has been filed before the Special Court and the same is pending for consideration on point of charge.

5. Per contra, learned APP for the State submits that a total quantity of 3.309 Kg of opium was recovered from the present applicant as well as from



the co-accused person. It is submitted that the notice under Section 50 was not defective and the conduct of the raiding party was in accordance with law.

6. Heard learned counsel for the parties and perused the record.

7. A quantity of 515 gms of opium was allegedly recovered from the present applicant which is stated to be an intermediate quantity and in view thereof the rigors of Section 37 of the NDPS Act will not be applicable. The investigation in the present case stands complete and chargesheet has been filed. The nominal roll received reflects that the applicant has been in custody since 29.05.2023 and there is no previous involvement of the present applicant.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with evidence or



try to influence the witness in any manner.

9. The application is allowed and disposed of accordingly.
10. Pending applications, if any, also stand disposed of.
11. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 02, 2024/sn

Click here to check corrigendum, if any