



\$~64

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 750/2024**
SHAILENDERPetitioner

Through: Mr. Prashant Chakravarty & Mr. Nitin
Bansal, Advocates.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Sanjeev Bhandari, ASC with
SI Shri Narayan, PS: Hauz Qazi and
SI Arun Pal, PS: GTB Nagar.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

%

06.09.2024

CRL.M.A. 26942/2024

An application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for early hearing.

Issue notice. Learned APP for the State appears on advance notice and accepts notice.

Allowed, BAIL APPLN. 750/2024 is taken up for hearing.

Application accordingly stands disposed of.

BAIL APPLN. 750/2024 & CRL.M.A. 26943/2024

1. An application under Section 439 Cr.P.C. has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 0007/2021, under Sections 21/61/85 of NDPS Act, registered at PS: Hauz Qazi, Delhi. Also, an application under Section 528 BNSS has been preferred on behalf of the



petitioner for placing additional grounds on record.

2. In brief, as per the case of prosecution, a secret information was received, upon which petitioner was apprehended and 24 polythene packets of Heroin weighting 4 Kgs 800 gms were recovered from black colored bag carried by petitioner.

3. Learned counsel for petitioner submits that in view of non-compliance of Section 52A of NDPS Act, petitioner is entitled to bail. He further points out that petitioner is in custody since 13.01.2021 and no prosecution witness has been examined till date.

4. On the other hand, learned ASC for the State opposes the application and submits an earlier BAIL APPLN. 3508/2021, preferred on behalf of petitioner, was dismissed on merits vide detailed order dated 03.08.2022 by this Court. He emphasizes that there is no change of circumstances after dismissal of earlier application for bail and delay in conclusion of trial is not attributable to prosecution.

It is also pointed out that a certificate under Section 52A NDPS Act was also given by the concerned Executive Magistrate, after seized property was produced, before the Executive Magistrate. It is urged that the contentions of the petitioner challenging the process for obtaining samples after mixing of the case property, were dealt by a detailed order passed by this Court on 03.08.2022, dealing with all the relevant authorities relied by the counsels.

5. This Court is of the considered opinion that there is no change of circumstances after dismissal of earlier application by this Court and contentions of prejudice, if any, raised on behalf of the petitioner, can be appropriately looked into during the course of trial. The bar under Section 37



of NDPS Act cannot be ignored, considering the fact that 4 Kgs 800 gms of Heroin (commercial quantity) was recovered from the possession of petitioner.

Considering the facts and circumstances of the case, no grounds for bail are made out at this stage. Application is accordingly dismissed. Pending applications, if any, also stand disposed of.

Next date of hearing i.e. 04.10.2024, stands cancelled.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 6, 2024/R