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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 954/2023

GEOFFREY BOATENG

..... Petitioner

Through: Mr Aniruddha Singh Rajavat and Mr
Rajesh Sherawat, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr Ritesh Kumar Bahri, APP for the
State with SI Manish, Anti Narcotics
Squad West.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

23.04.2024

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1. The present petition has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.0135/2019 under Sections 21/25 NDPS Act registered at PS Khayala.
2. The case of the prosecution is that on 21.04.2019, a secret information was received that one African national, who is a drug peddler, will be coming to Keshavpur Mandi T Point at about 8:00 AM to 9:00 AM on scooty no.DL-9SBJ-4469 Honda to supply drugs and if raid is conducted he can be caught red handed with drugs. Accordingly, a raiding team was constituted and a trap was laid.
3. The petitioner/accused was apprehended along with his scooty and the contraband weighing 320 grams which was found to be heroine, was recovered from the possession of the petitioner.



4. Learned counsel for the petitioner has confined his submission only to the aspect that the petitioner is in custody since 21.04.2019 and has completed five years of custody, therefore, he is entitled to the benefit of the decision of the Hon'ble Supreme Court in ***Supreme Court Legal Aid Committee representing Undertrial Prisoners vs. Union of India & Ors.***, (1994) 6 SCC 731.

5. In support of the said contention, the attention of the Court is also drawn to the nominal roll of the petitioner. A perusal of the said nominal roll shows that the petitioner has undergone 04 years, 11 months and 26 days as on 16.04.2024. Evidently, as on date, the petitioner has completed 05 years of custody. This position is also not disputed by the learned APP for the State.

6. At this stage, apt would it be to refer to the decision of the Hon'ble Supreme Court in ***Supreme Court Legal Aid Committee representing Undertrial Prisoners*** (*supra*) wherein the Hon'ble Supreme Court while dealing with the aspect of custody and the bail to be granted to the undertrials in NDPS matters has observed as under:

“(iii) Where the undertrial accused is charged with an offence(s) under the Act punishable with minimum imprisonment of ten years and a minimum fine of Rupees one lakh, such an undertrial shall be released on bail if he has been in jail for not less than five years provided he furnishes bail in the sum of Rupees one lakh with two sureties for like amount.

7. Having regard to the aforesaid legal position, the petitioner is entitled to the grant of regular bail. Accordingly, the petitioner is admitted to regular bail, subject to his furnishing Personal Bond in the sum of Rs.50,000/- and a



Surety Bond of the like amount subject to the satisfaction of the learned Special Judge and further subject to the following conditions:-

- a) The petitioner will not leave the country without prior permission of the concerned Trial court. The petitioner shall within a period of one week of his release from the custody shall furnish his original passport to the Investigating Officer, if already not seized by the Investigating Officer concerned;
 - b) The petitioner shall provide his mobile phone number to the Investigating Officer (IO) concerned at the time of release, which shall be kept in working condition at all times, the petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the period of bail;
 - c) The petitioner shall provide his residential address to the Investigating Officer (IO) concerned at the time of release. The petitioner shall not change the same without prior intimation to the IO concerned. The IO shall provide his number to the learned counsel for the petitioner for being shared with the petitioner;
 - d) The petitioner shall mark his attendance with the SHO/IO concerned and keep him informed of his whereabouts every Friday between 11:00 A.M. to 12 Noon or between 5:00 P.M. to 6:00 P.M. through video call and if video call is not possible, he may send SMS *apropos* his whereabouts;
 - e) The petitioner shall not indulge in any criminal activity during bail period.
8. The petition stands disposed of.
 9. Copy of the order be forwarded to the concerned Jail Superintendent



for necessary information and compliance.

10. Order be uploaded on the website of this Court.
11. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

APRIL 23, 2024
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